Dec. 2 c. No counsel appear on appts. Court decline to hear one. Mr. Coffey objecting argued by Mr. Coffey Sub'd & aff'd Davis with Read.

SUPREME COURT OF THE UNITED STATES.

No. ~~162.~~ 88.

THE BRIG "ISABELLA THOMPSON," HER TACKLE, &c., JAMES McDANIEL, CLAIMANT, AND NEHEMIAH K. CLEMENTS, ON BEHALF OF HIMSELF AND MARTIN & CO., CLAIM'TS OF THE CARGO, APPELLANTS.

vs.

THE UNITED STATES.

APPEAL FROM THE DISTRICT COURT OF THE UNITED STATES FOR THE SOUTHERN DISTRICT OF NEW YORK.

GOVERNMENT PRINTING OFFICE.

SUPREME COURT OF THE UNITED STATES.

No. 162.

THE BRIG "ISABELLA THOMPSON," HER TACKLE, &c., JAMES McDANIEL, CLAIMANT, AND NEHEMIAH K. CLEMENTS, ON BEHALF OF HIMSELF AND MARTIN & CO., CLAIMTS OF THE CARGO, APPELLANTS.

vs.

THE UNITED STATES.

APPEAL FROM THE DISTRICT COURT OF THE UNITED STATES FOR THE SOUTHERN DISTRICT OF NEW YORK.

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on behalf of said libellants and of the naval captors in interest, respectfully represents to this honorable court:

First. That the brig or vessel called the Isabella Thompson, with the goods, wares, and merchandise laden therein, was captured as lawful prize on or about the 19th day of June, 1863, on the Atlantic ocean, in latitude 40° north, longitude 67° 10′ west, or thereabouts, by the United States chartered steamer The United States, Lieut. Mead, United States navy, commanding.

Second. That the brig or vessel called the Isabella Thompson, with the goods, wares, and merchandise laden therein, were, at the time of such capture, and are now rightfully subject to such capture, and were and are lawful prize, and as such should be condemned and forfeited to the use of the libellants.

Third. That the said brig or vessel called the Isabella Thompson, with the goods, wares, and merchandise laden therein, have been brought to the port of New York, and are now at said port, and within the jurisdiction of this honorable court.

Fourth. That by reason of the premises the said brig or vessel called the Isabella Thompson, her tackle, apparel, and furniture, with the goods, wares, and merchandise laden therein, became and are liable to condemnation and forfeiture as lawful prize, and should be condemned and forfeited as lawful prize to the libellants.

That all and singular the premises are and were true, and within the jurisdiction of this honorable court; in attestation whereof the said attorney exhibits the said vessel's papers and the documents, &c., found on board, together with the testimony of the witnesses, duly taken *in preparatorio* by the prize commissioners appointed by this honorable court, which are or will be duly filed in the registry of this court.

Wherefore, the said attorney of the United States, on behalf of the said United States, prays the usual process and monition of this honorable court against the said brig or vessel called the Isabella Thompson, and her tackle, apparel, and furniture, and the goods, wares, and merchandise laden therein, in this behalf to be made, and that all persons interested in the said vessel and her cargo may be cited to answer in the premises; and that all due proceedings being had therein, this honorable court may be pleased to decree for the condemnation and forfeiture aforesaid, and that the said brig, her tackle, apparel, and furniture, with the goods, wares, and merchandise laden therein, may be condemned as lawful prize to the use of the said United States.

Dated New York, June 24, 1863.

E. DELAFIELD SMITH,
United States District Attorney.

5 Filed June 24th, 1863.

Monition returnable July 14th, 1863.

Case submitted July 21st, 1863, by consent, without briefs.

E. DELAFIELD SMITH,
U. S. Dist. Att'y.

BEEBE, DEAN & DONOHUE, *For Cl'm'ts.*

6 SOUTHERN DISTRICT OF NEW YORK, *ss:*

The President of the United States of America to the marshal of the southern district of New York, greeting:

[SEAL.] Whereas a libel hath been filed in the district court of the United States for the southern district of New York, on the 24th day of June, in the year of our Lord one thousand eight hundred and sixty-three, by E. Delafield Smith, esquire, U. S. district attorney, on behalf of the United States of America, against the brig Isabella Thompson, her tackle, &c., and cargo, for the reasons and causes in the said libel mentioned, and praying the usual process and monition of the said court in that behalf to be made, and that all persons interested in the said brig, her tackle, &c., and cargo, may be cited, in general and special, to answer the premises, and all proceedings being had that the said brig, her tackle, &c., and cargo, may, for the causes in the said libel mentioned, be condemned as lawful prize to the use of the United States:

You are, therefore, hereby commanded to attach the said brig, her tackle, &c., and cargo, and to detain the same in your custody until the further order of the court respecting the same, and to give due notice to all persons claiming the same, or knowing or having anything to say why the same should not be condemned and sold, pursuant to the prayer of the said libel, that they be and appear before the said court, to be held in and for the southern district of New York, on the fourteenth day of July next, at eleven o'clock in the forenoon of the same day, if the same shall be a day of jurisdiction, otherwise on the next day of jurisdiction thereafter, then and there to interpose a claim for the same, and to make their allegations in that behalf. And what you shall have done in the premises do you then and there make return thereof, together with this writ.

Witness the honorable Samuel R. Betts, judge of the said court, at the city of New York, in the southern district of New York, this 24th day of June, in the year of our Lord one thousand eight hundred and sixty-three, and of our independence the eighty-seventh.

GEO. F. BETTS, *Clerk.*

E. DELAFIELD SMITH,
U. S. District Attorney.

7 In obedience to the within monition, I attached the brig Isabella Thompson, and cargo therein described, on the 24th day of June, 1863, and have given due notice to all persons claiming the same, that this court will, on the 14th day of July inst., (if that day should be a day of jurisdiction, if not, on the next day of jurisdiction thereafter,) proceed to the trial and condemnation thereof, should no claim be interposed for the same.

R. MURRAY,
U. S. Marshal.

Dated July 14, 1863.

Monition ret'ble 14th July, 1863.

E. DELAFIELD SMITH,
U. S. Attorney.

Filed the 14th day of July, 1863.

I hereby depute E. M. Morris to execute the within process.
June 24th, 1863.

R. MURRAY, *U. S. Marshal.*

8 At a stated term of the district court of the United States of America for the southern district of New York, held at the United States court-rooms, in the city of New York, on Tuesday, the 14th day of July, in the year of our Lord one thousand eight hundred and sixty-three.

Present: The honorable Samuel R. Betts, district judge.

THE UNITED STATES
vs.
THE BRIG ISABELLA THOMPSON, her tackle, &c., and cargo. } In prize. 18, 17.

The marshal having returned the monition issued in the above-entitled cause, the brig Isabella Thompson and cargo attached, notice given, proclamation made:

Mr. J. Y. Sommers appears for claimant of vessel, and files claim.

Messrs. Beebe, Dean & Donohue appear for claimants of cargo. Claim heretofore filed.

9

10 District court of the United States for the southern district of New York.

Filed 14th day of July, 1863.

Stipulation entered into pursuant to the rules and practice of this court.

Whereas a libel was filed in this court, on the 24th day of June, in the year of our Lord one thousand eight hundred and sixty-three, by E. Delafield Smith, U. S. district attorney, on behalf of the United States, against the brig Isabella Thompson, her tackle, &c., for the reasons and causes in the said libel mentioned, and praying that said brig, her tackle, &c., may be condemned as lawful prize to the United States, and the parties hereto hereby consenting that, in case of default or contumacy on the part of the claimant or his surety, execution for the sum of two hundred and fifty dollars may issue against their goods, chattels, and lands: And whereas, also, a claim has been filed in said cause by James McDaniel:

Now, therefore, it is hereby stipulated and agreed, for the benefit of whom it may concern, that the stipulators undersigned shall be, and each of them is hereby, bound in the sum of two hundred and fifty dollars, conditioned that the claimant above named shall pay all

costs and expenses which shall be awarded against him by the final decree of this court, or upon an appeal by the appellate court.

JAMES McDANIEL.
RICHARD K. COOKE.

Taken and acknowledged this 14th day of July, 1863, before me.

GEO. W. MORTON,
U. S. Commissioner.

SOUTHERN DISTRICT OF NEW YORK, *ss:*

Richard K. Cooke, party to the above stipulation, being duly sworn, doth depose and say: That he resides in the city of Brooklyn; that he is worth the sum of five hundred dollars, over and above all his just debts and liabilities.

RICHARD K. COOKE.

Sworn to this 14th day of July, 1863, before me.

GEO. W. MORTON,
U. S. Commissioner.

Recorded the 14th day of July, 1863.

GEO. F. BETTS, *Clerk.*

[Revenue stamp.]

11 To the honorable Samuel R. Betts, judge of the district court of the United States for the southern district of New York:

The answer and claim of Nehemiah K. Clements, of Nova Scotia, on behalf of himself and of Martin & Co., of Nassau, respectfully shows:

First. That the claimants are the true and only owners of 486 barrels spirits turpentine, and 81 bales of cotton, libelled in this cause.

Second. That the claimant denies each and every statement in the libel of complaint, except that the vessel was wrongfully captured at the time and place stated in the libel, and that it was at the time of filing the libel in the southern district of New York.

Third. That the claimants are British subjects, and residents in the provinces of the United Kingdom, and that the cargo, at the time of the seizure thereof, was on board a neutral vessel, on a voyage between neutral ports.

Fourth. That the statements herein are true.

Wherefore the claimant prays that the libel herein may be dismissed, and the cargo restored to the claimants with costs and damages for its unjust detention, or for such relief as may be just.

N. K. CLEMENTS.

Sworn to before me this 10th day of July, 1863.

12 UNITED STATES OF AMERICA,
Southern District of New York, ss:

Nehemiah K. Clements, of Yarmouth, N. S., being duly sworn, says that he is a native of Yarmouth, and a British subject; that he has resided at Yarmouth, N. S., for forty-six years past, and now

resides there; that the cargo of the said brig Isabella Thompson belongs to the deponent and the firm of Martin & Co., of Nassau, N. P., subjects of, and residents in, the provinces of the United Kingdom; that the said cargo was shipped at Nassau, aforesaid, on board the said brig Isabella Thompson, to be carried from said port of Nassau to Halifax, N. S., and that the said brig, while on said voyage, was under a charter, begun and to end at Halifax; that the said cargo was, at the time of seizure, and is now, the property of the claimant and no other person, and if ordered to be discharged from this cause will belong to this claimant and no other person, and that no other person has any interest therein.

N. K. CLEMENTS.

Sworn to before me this 10th day of July, 1863.

JNO. P. McGOWAN, [SEAL.]
Notary Public, New York.

[Revenue stamp.]

Endorsed: 18, 17. U. S. district court. In prize. 486 barrels of spirits of turpentine, and 81 bales of cotton, *ads.* The United States. Claim. Beebe, Dean & Donohue, for cl'm't.
Filed July 10th, 1863.

13 To the honorable Samuel R. Betts, judge of the district court of the United States for the southern district of New York:

The answer and claim of James McDaniel, of Halifax, in the province of Nova Scotia, to the libel of complaint against the brig Isabella Thompson, her tackle, &c., respectfully shows:

First. That the claimant is the true and only owner of the said brig and her tackle, apparel, and furniture, libelled in this cause.

Second. That the claimant denies each and every statement in the libel of complaint, except that the said vessel was, at the time of filing the libel, in the southern district of New York.

Third. That the claimant is a British subject, and a resident in the province of the United Kingdom of Great Britain, and that the said brig, at the time of the seizure thereof, was a neutral vessel on a voyage between neutral ports.

Fourth. That the statements herein are true. Wherefore, the claimant prays that the libel herein against the said brig, her tackle, apparel, and furniture, may be dismissed, and that said brig, her tackle, &c., may be restored to this claimant with costs and damages for its unjust detention, and for such relief as may be just.

JAMES McDANIEL.
J. B. YATES SOMMERS,
Proctor.
AUG'T F. SMITH,
Advocate.

14 UNITED STATES OF AMERICA,
Southern District of New York, ss:

James McDaniel, of Halifax, Nova Scotia, being duly sworn, says that he is a native of the province of Nova Scotia, and a British

subject, and that he has resided at Halifax, in said province, for five years last past, and now resides there. That the said brig Isabella Thompson belongs to this deponent, and that he chartered her in the month of April last to Messrs. Pryor & Son, of Halifax, aforesaid, who then were, and still are, British subjects, for a voyage from Halifax, N. S., to Nassau, N. P., and back. That said brig conveyed a cargo, under said charter, from Halifax to Nassau aforesaid, and discharged the same, and received a cargo on board at Nassau for her return to Halifax, and that, at the time of her seizure, she was actually on a voyage, under a charter, commencing and ending at Halifax, aforesaid. That the said brig, her tackle, apparel, and furniture were, at the time of such seizure, and now are, the property of this claimant and of no other person, and if ordered to be discharged from this cause will belong to this claimant and no other person, and no other person has any interest therein.

JAMES McDANIEL.

Sworn this 14 day of July, 1863, before me.

A. C. WILLMARTH. [SEAL.]
Notary Public.

{ Revenue Stamp. }

Endorsed: In prize 18, 17. U. S. district court, southern dist. of N. Y. The United States *vs.* The brig Isabella Thompson, her tackle, &c. Claim of owner of brig.

J. B. Y. SOMMERS,
Proctor for Claimant.

Filed July 14, 1863.

15 At a stated term of the district court of the United States of America for the southern district of New York, held at the United States court-rooms, in the city of New York, on Tuesday the 21st day of July, in the year of our Lord one thousand eight hundred and sixty-three.

Present: The honorable Samuel R. Betts, district judge.

THE UNITED STATES
vs.
THE BRIG ISABELLA THOMPSON, her tackle, &c., and cargo. } 18, 17.

The process having been heretofore returned herein, and the U. S. district attorney and proctors for the claimant having consented, in writing, to submit the above cause for adjudication without briefs by either party.

Papers submitted.

C. A. V.

17 District court of the United States for the southern district of New York.

Deposition of William Steele, (seaman,) a witness produced, sworn, and examined in preparatorio, on the twenty-seventh day of

June, in the year eighteen hundred and sixty-three, at the office of the U. S. prize commissioners, New York, on the standing interrogatories established by the district court of the United States for the southern district of New York, the said witness having been produced for the purpose of such examination by E. Delafield Smith, U. S. district attorney, in behalf of the captors of a certain ship or vessel called the Isabella Thompson.

1. To the first interrogatory he says: I was born in Bauff, Scotland; I have lived for the last six months in Halifax, N. S.; am a subject of Great Britain, and not married.

2. To the second interrogatory he says: I was on board the Isabella Thompson when she was captured.

3. To the third interrogatory he says: I don't know where
18 the vessel was at the time of the capture. She was brought to this port. I don't know what authority the gunboat had, or what pretence was made for the capture.

4. To the fourth interrogatory he says: She sailed under English colors; there were none other on board.

To the fifth interrogatory he says: No resistance was made. I think only one gun was fired by the U. S. gunboat United States, the vessel that made the capture. The vessel captured is a merchantman. The capturing vessel is a U. S. gunboat.

6. To the sixth interrogatory he says: I don't know of any commission to make captures held by the capturing vessel, or whether the vessel has been condemned.

7. To the seventh interrogatory he says: The vessel captured is named the Isabella Thompson. Her captain's name is Locke. I don't know who gave him command, or how long he has had command. He is a Nova Scotian.

8. To the eighth interrogatory he says: I don't know the
19 vessel's tonnage. The ship's company was seven men, besides one passenger. All were on board at the capture; all are subject to Great Britain; all came on board at Halifax, except the passengers, about two months ago.

9. To the ninth interrogatory he says: I don't know of any person having any interest in the vessel or her cargo.

10. To the tenth interrogatory he says: I have known the vessel about two months, and the captain for the same period of time, and first saw them both at Halifax. I don't know where she was built; she has always been called the Isabella Thompson.

11. To the eleventh interrogatory he says: The vessel was bound to Halifax; the voyage commenced there, and was to have ended there. The cargo out was lumber and a general cargo; and returning was cotten and turpentine. It was put on board at Nassau about a month since. There were no contraband articles on board.

12. To the 12th interrogatory he says: I know nothing about the papers on board the vessel, or of any previous voyage.

20 13. To the thirteenth interrogatory he says: Her cargo on her last voyage was, as I have stated, and was all on board at the time of capture.

14. To the fourteenth interrogatory he says: Captain McDaniel, of Halifax, owns the vessel. I don't know who owns the cargo.

15. To the fifteenth interrogatory he says: I know nothing of any sale of the vessel.

16. To the sixteenth interrogatory he says: The cargo was put on board at Nassau about the first of June. I don't know who were the owners, laders, or consignees.

17. To the seventeenth interrogatory he says: I know nothing of any bills of lading.

18. To the eighteenth interrogatory he says: I know nothing of any papers belonging to the vessel.

19. To the nineteenth interrogatory he says: I don't know what latitude or longitude we were in, or what port we were near.

20. To the twentieth interrogatory he says: I don't know of any papers being destroyed or concealed.

21. To the twenty-first and twenty-second interrogatories he says: The vessel was not near any blockaded port at the time of
21 capture.

23. To the twenty-third interrogatory he says: The vessel's papers were not shown to any officer previous to the capture.

24. To the twenty-fourth interrogatory he says: I never heard of her having attempted to run into or out of a blockaded port.

25. To the twenty-fifth interrogatory he says: She has never been seized before.

26. To the twenty-sixth interrogatory he says: I have lost nothing by the seizure.

27. To the twenty-seventh interrogatory he says: I know nothing about the insurance.

28. To the twenty-eigth interrogatory he says: I don't know what disposition would have been made of the cargo if it had arrived at Halifax.

29. To the twenty-ninth interrogatory he says: I know nothing about the growth of the cargo.

30. To the thirtieth interrogatory he says: The cargo was put on board from a lighter, which made two trips between the vessel and the wharf at Nassau.

31 and 32. To the thirty-first and thirty-second interrogatories he says: I know nothing of any papers belonging to the vessel.

22 33. To the thirty-third interrogatory he says: Bulk was not broken during the voyage.

34. To the thirty-fourth interrogatory he says: There was one passenger on board named John Brooks, an Englishman, going to Halifax. I don't know anything about him.

35. To the thirty-fifth interrogatory he says: I signed the ship's articles at Halifax. I know of no other papers belonging to the vessel or passenger.

36. To the thirty-sixth interrogatory he says: I don't know what course the vessel was steering when captured; no change was made in her course.

37. To the thirty-seventh interrogatory he says: I know nothing of any sale or transfer of the vessel.

38. To the thirty-eighth interrogatory he says: No guns were on board, and no arms or ammunition of any sort.

39. To the thirty-ninth interrogatory he says: I believe the vessel was truly going to Halifax.

40, 41, 42, 43. To the fortieth, forty-first, forty-second, and forty-third interrogatories he says: I know nothing of the vessel having ever sailed in company with an armed vessel, or having at-
23 tempted to run the blockade, or sailing as a privateer, or in concert with an armed vessel.

WILLIAM STEEL.

Subscribed and sworn to this 27th day of June, 1863.

HENRY H. ELLIOTT,
U. S. Prize Com'r.

24 UNITED STATES OF AMERICA,
Southern District of New York, ss:

I, Henry H. Elliott, one of the prize commissioners appointed by the district court of the United States for the southern district of New York, in and for the said district, do hereby certify that the foregoing deposition of William Steele, seaman, a witness produced on behalf of the captors, was taken by and under my direction, at the time and place mentioned in the caption thereof; that the same contains the answers of the said witness to the "standing interrogatories;" that before such examination was commenced, the oath directed by the 17th prize rule was by me duly administered to the witness, and he was thereupon afterwards examined, separate and apart from the other witnesses; that such examination was begun, continued, and finished on the same day, and was by me, or under my direction, reduced to writing, and the same having been by me carefully read to him, was by him subscribed in my presence, at the close of such examination.

In testimony whereof, I have hereunto set my hand and
25 affixed my official seal, at the city of New York, this 27th day of June, in the year of our Lord one thousand eight hundred and sixty-three.

[SEAL.]

HENRY H. ELLIOTT,
U. S. Prize Com'r.

26

27 District court of the United States for the southern district of New York.

Deposition of Gabriel English, colored, cook and steward, a witness produced, sworn, and examined, in preparatorio, on the 25th day of June, in the year eighteen hundred and sixty-three, at the office of the U. S. prize commissioners, No. 4 Pine street, on the standing interrogatories established by the district court of the United States

for the southern district of New York; the said witness having been produced for the purpose of such examination by E. Delafield Smith, esq'r, U. S. district att'y, in behalf of the captors of a certain ship or vessel called the brig Isabella Thompson.

1. To the first interrogatory he says: I was born in New Brunswick, British provinces. I now live in Halifax. I have sailed from there since the year 1861. I am an English subject. I am not married.

2. To the second interrogatory he says: I was present when the brig was captured.

3. To the third interrogatory he says: The capture was
28 made on the 19th day of month of June, at sea, off St. George's banks. The prize was brought here. I don't know anything about her commission. We were taken under suspicion of running the blockade.

4. To the fourth interrogatory he says: We were under English calors, and had no other flag except a burgee.

5. To the fifth interrogatory he says: There was no resistance made. One gun was fired by the U. S. gunboat United States, by which vessel the capture was made; no other vessel being in sight. The brig is a merchant vessel. The United States carries five or six guns.

6. To the sixth interrogatory he says: I don't know anything about the commission of the United States, by which the capture was made.

7. To the seventh interrogatory he says: The brig is named Isabella Thompson; her captain is named Locke. He was appointed by Mr. McDonald, the owner of the brig, in Halifax. I have known the vessel since last fall. I have known the captain about two months. I had seen him before that in Halifax He took pos-
29 session of the brig in Halifax. The owner, McDonald, gave him the charge of her. The captain lives in Nova Scotia. I think he has a wife and family. I don't know how long he has lived there. I heard he was born in Nova Scotia. He is an English subject.

8. To the eighth interrogatory he says: The tonnage of the brig, I have heard, is one hundred and four tons. Her company, all told, was seven, besides one passenger; all on board when taken; all English subjects; all came on board at Halifax; all shipped the same time at Halifax; we were shipped by the owner, McDonald, in Halifax.

9. To the ninth interrogatory he says: I belonged to the brig, and was cook and steward. None of the company had any interest in the vessel or cargo that I know of.

10. To the tenth interrogatory he says: I first saw the brig in Halifax, last December; she carried no guns. There were eight persons on board, including one passenger. I am told the brig was built in New Brunswick. I don't know that she has ever been called by any other name.

30 11. To the elventh interrogatory he says: We were bound, when captured, to Halifax. The voyage began at Halifax,

and was to have ended at Halifax. She carried a general cargo of lumber and fish, and carbonate of soda, mackerel, &c. I don't know anything else, from Halifax to Nassau. When captured we had cotton and turpentine, which was put on board in the harbor of Nassau, out in the stream. We were about four or five days taking it in. We took it from the schooner Argyle, the latter end of May or the forepart of June, 1863. I don't know that she ever carried anything contraband of war.

12. To the twelfth interrogatory he says: I don't know about any passport. We sailed direct from Halifax to Nassau without stopping, and from Nassau we stopped at no port before capture. I don't know anything about any cargo, except what I have told. She cleared from Nassau, or sailed from there, on the sixth day of this month.

13. To the thirteenth interrogatory he says: I have told all I know about her cargoes. I don't know anything about quantity or quality.

31 14. To the fourteenth interrogatory he says: The owner of the vessel is McDonald, of Halifax. The mate said the cargo was consigned to Benj. Weir & Co., Halifax. I don't know who owned it; I never heard.

15. To the fifteenth interrogatory he says: I don't know anything about any bill of sale of the vessel.

16. To the sixteenth interrogatory he says: The cargo was put on board in Nassau harbor about the 1st of this month. The brig was consigned to Sanders & Son, Nassau. I don't know who, except what I have told.

17. To the seventeenth interrogatory he says: I don't know anything about any bills of lading or other papers.

18. To the eighteenth interrogatory he says: I don't know anything about any paper.

19. To the nineteenth interrogatory he says: I don't know the latitude or longitude of the capture. We were captured on the 19th day of this month, between 7 and 8 o'clock in the morning, on Saint George's banks. I don't know anything about any charter-party.

20. To the twentieth interrogatory he says: I know nothing
32 about any papers; I never heard of any being thrown overboard, or burnt, or in any way destroyed.

21, 22. To the twenty-first and twenty-second interrogatories he says: I knew about the war, and that the ports were blockaded, and that the southern ports were blockaded by the United States forces; and the captain and owners knew all about that. The brig's papers were never examined by any other vessel, except when we were captured by the United States.

23. To the 23d interrogatory he says: As in the last answer, the vessel's papers were never examined by any officer of the United States, except at the time of capture.

24. To the twenty-fourth interrogatory he says: The brig never went near any port that was blockaded, so far as I know.

25. To the twenty-fifth interrogatory he says: The brig has never been taken as a prize before.

26. To the twenty-sixth interrogatory he says: I have lost nothing by the seizure.

27. To the twenty-seventh interrogatory he says: I know nothing about any insurance.

28. To the twenty-eighth interrogatory he says: I don't
33 know anything about the cargo. I heard it was consigned to B. Weir & Co., Halifax.

29. To the twenty-ninth interrogatory he says: He took the cargo off from the schooner Argyle, a southern vessel, from Wilmington, North Carolina. I suppose the cargo came from there.

30. To the thirtieth interrogatory he says: The cargo was put on board from the schooner Argyle, which had run the blockade from Wilmington, and we took it off from the Argyle in the harbor of Nassau. I was told the captain of the Argyle owned part of the vessel, and I suppose he owns a part of the cargo. I don't remember his name. He is a southern man, from Wilmington.

31. To the thirty-first interrogatory he says: I don't know anything about any papers.

32. To the thirty-second interrogatory he says: I don't know that any papers were ever carried away in any manner whatever.

33. To the thirty-third interrogatory he says: Bulk was never broken.

34. To the thirty-fourth interrogatory he says: There was
34 one passenger only on board. He came on board in Nassau. I don't remember his name. He is an Englishman. He was going to Halifax. I don't know about him; but he told us he went out from New York, as a fireman, in the steamer Arabia to Nassau. I saw the steamer in Nassau. The vessel was bought here and taken to Nassau. He told us he was going to sail again, either from Halifax or the States. He said he was going to New York. He had nothing to do with our vessel or cargo. There was no other person of any kind aboard, except the company of the brig, and they were all English subjects.

35. To the thirty-fifth interrogatory he says: I don't know anything about any papers of any kind.

36. To the thirty-sixth interrogatory he says: We were steering as near as we could for Halifax. We had the wind ahead. We never went out of our course, when the weather would permit a direct course.

37. To the thirty-seventh interrogatory he says: I don't know anything about any sale of the vessel.

35 38. To the thirty-eighth interrogatory, he says: There were no guns mounted on board, and no cargo, except cotton and turpentine; I saw it when it went on board. There were no warlike or naval stores of any kind.

39. To the thirty-ninth interrogatory he says: I don't know anything about the voyage, except what I have told you.

To the 40, 41, 42, and 43 interrogatories he says: The brig never

sailed under the convoy of any ship-of-war, and never attempted to run the blockade, and never carried a commission or license as privateer, and never sailed, or acted in any way, in concert with any armed vessel.

GABRIEL ENGLISH.

Subscribed and sworn to this this 25th day of June, 1863.

HENRY H. ELLIOTT.
U. S. Prize Com'r.

36 UNITED STATES OF AMERICA,
Southern District of New York, ss:

I, Henry H. Elliott, one of the prize commissioners appointed by the district court of the United States for the southern district of New York, in and for the said district, do hereby certify that the foregoing deposition of Gabriel English, cook and steward, a witness produced on behalf of the captors, was taken by and under my directions, at the time and place mentioned in the caption thereof; that the same contains the answers of the said witness to the standing interrogatories; that before such examination was commenced, the oath directed by the 17th prize rule was by me duly administered to the witness, and he was thereupon afterwards examined, separate and apart from the other witnesses; that such examination was begun, continued, and finished on the same day, and was by me, or under my direction, reduced to writing, and the same having been by me carefully read to him, was by him subscribed in my presence at the close of such examination.

37 In testimony whereof, I have hereunto set my hand and affixed my official seal, at the city of New York, this 25 day of June, in the year of our Lord one eight hundred and sixty-three.

[SEAL.]

HENRY H. ELLIOTT,
U. S. Prize Com'r.

38

39 District court of the United States for the southern district of New York.

Deposition of Thomas Stevens, (mate,) a witness produced, sworn, and examined in *preparatorio*, on the twenty-seventh day of June, in the year eighteen and sixty-three, at the office of the U. S. prize commissioners, on the standing interrogatories established by the district court of the United States for the southern district of New York. The said witness having been produced for the purpose of such examination by E. Delafield Smith, U. S. district attorney, in behalf of the captors of a certain ship or vessel called the brig Isabella Thompson.

1. To the first interrogatory he says: I was born at, and now live in, Halifax; am a subject of Great Britain; am not married.

2. To the second interfogatory he says: I was on board the Isabella Thompson when she was captured.

40 To the third interrogatory he says: I don't know when the capture was made. The vessel was brought to this port. I don't know whether the capturing vessel was authorized to make prizes, and I don't know the reason for the seizure, except that there was cotton on board.

4. To the fourth interrogatory he says: The vessel sailed under English colors; none others wereon board.

5. To the fifth interrogatory he says: No resistance was made; two guns were fired, I believe, by the U. S. gunboat United States, the vessel that made the capture. There were no other vessels in sight at the time. The vessel captured is a merchantman, the capturing vessels a U. S. gunboat of five guns.

6. To the sixth interrogatory he says: I don't know that the capturing vessel had authority to make the capture. I don't know that the captured vessel has been condemned.

7. To the seventh interrogatory he says: The vessel captured is called the Isabella Thompson. Her captain's name is Locke. Captain McDaniel gave him command at Halifax. I have known the vessel for about a year, and her captain for this voyage
41 only. He took command at Halifax, about two months ago. I don't know where the captain and his family live. He is a Nova Scotian.

8. To the eighth interrogatory he says: The vessel is one hundred and four tons burden. The ship's company was eight persons on this voyage; her usual complement is seven; they were all on board at the time of the seizure. They are subjects of Great Britain, and came on board at Halifax, except one that came on board at Nassau.

9. To the 9th interrogatory he says: I was mate of the vessel when she was captured. None of the ship's company had any interest in her or her cargo.

10. To the tenth interrogatory he says: I first saw the Isabella Thompson about a year ago, near Halifax, N. S. She carried no guns. Her crew were all on board at the time of capture. She was built at St. John's, N. B., and has always been called the Isabella Thompson.

11. To the eleventh interrogatory he says: The vessel was bound to Halifax, and was to have ended there. She carried lumber, fish, &c., to Nassau and discharged it. She was loaded with cot-
42 ton and turpentine on her return. It was put on board about a month since. I know of no contraband goods on board.

12. To the twelfth interrogatory he says: I know nothing of any permit or passport. Her last voyage was to Barbadoes, from Halifax, with an assorted cargo of lumber, fish, &c., &c. Returned with sugar and molasses. Her last clearing port, previous to the capture, was Nassau, N. P.

13. To the 13th interrogatory he says: Her cargo was all cotton and turpentine, and was put on board at Nassau about the 1st of June instant.

14. To the fourteenth interrogatory he says: The owner's name is McDaniel. The cargo is consigned to Benjamin Weir, at Halifax;

both are Nova Scotians, and subjects of Great Britain. McDaniel bought the vessel from the United States after she had been run into and dismasted, about a year since.

15. To the fifteenth interrogatory he says: I know of no bill of sale.

16. To the sixteenth interrogatory he says: I know nothing of the cargo or owners, further than I have stated.

43 17. To the seventeenth interrogatory he says: I know nothing of any bills of lading.

18 To the eighteenth interrogatory he says: I know nothing of any papers.

19. To the nineteenth interrogatory he says: I don't know the latitude and longitude in which she was captured. She was not near any port.

20. To the twentieth interrogatory he says: I know nothing of any papers being destroyed or concealed.

21 and 22. To the twenty-first and twenty-second interrogatories he says: The vessel was not near any port of United States under blockade. I had heard of the fact of the southern ports of the United States being blockaded and about the war.

23. To the twenty-third interrogatory he says: The ship's papers were not shown to any officers of the United States previous to her capture.

24. To the twenty-fourth interrogatory he says: The vessel never attempted to enter a port under blockade, since I have known her.

25. To the twenty-fifth interrogatory he says: She has never before been seized.

44 26. To the twenty-sixth interrogatory he says: I have lost nothing by the capture.

27. To the twenty-seventh interrogatory he says: I heard that she was insured for five hundred pounds, but I know nothing about it.

28. To the twenty-eighth interrogatory he says: I know nothing further than stated of what disposition was to be made of the cargo, if it had arrived at Halifax.

29. To the twenty-ninth interrogatory he says: I don't know of what growth or country the cargo is.

30. To the thirtieth interrogatory he says: The cargo was taken on board from a vessel, acting as a lighter, called the Argyle. I never saw her name. She made two trips, both from the wharf at Nassau. I have heard the Argyle run the blockade once; I don't know when.

31. To the thirty-first interrogatory he says: I know nothing of any papers or documents concerning the vessel.

32. To the thirty-second interrogatory he says: There were no papers delivered out of the vessel previous to her capture.

33. To the thirty-third interrogatory he says: Bulk was not broken during the voyage.

45 34. To the thirty-fourth interrogatory he says: There were

no passengers, though I think that the man taken on board at Nassau was working his passage for Halifax.

35. To the thirty-fifth interrogatory he says: I know nothing of any papers on board the vessel; I only signed the ship's articles at Halifax.

36. To the thirty-sixth interrogatory he says: The vessel was steering her course towards Halifax, when pursued and captured. No change was made in her course.

37. To the thirty-seventh interrogatory he says: I know of no sale of the vessel other than I have already mentioned.

38. To the thirty-eighth interrogatory he says: No guns were on board, and no arms or ammunition of any kind.

39. To the thirty-ninth interrogatory he says: I truly believe the destination of the vessel was Halifax.

40, 41, 42, 43. To the fortieth, forty-first, forty-second, and forty-third interrogatories he says: The Isabella Thompson never, to my knowledge, sailed in company with an armed vessel, or attempted to run the blockade, or sailed under commission as
46 privateers, or in concert with any armed vessel.

his
THOMAS + STEVENS.
mark.

Sworn and subscribed before me June 37th, 1863. His mark was made in my presence.

HENRY H. ELLIOTT,
U. S. Prize Com'r.

47 UNITED STATES OF AMERICA,
Southern District of New York, ss:

I, Henry H. Elliott, one of the prize commissioners, appointed by the district court of the United States for the southern district of New York, in and for the said district, do hereby certify that the foregoing deposition of Thomas Stevens, 1st mate, a witness produced on behalf of the captors, was taken by and under my direction at the time and place mentioned in the caption thereof; that the same contains the answers of the said witness to the standing interrogatories; that before such examination was commenced, the oath directed by the 17th prize rule was by me duly administered to the witness, and he was thereupon afterwards examined, separate and apart, from the other witnesses; that such examination was begun, continued, and finished on the same day, and was by me, or under my direction, reduced to writing, and the same having been by me carefully read to him, was by him subscribed in my presence at the close of such examination.

In testimony whereof, I have hereunto set my hand and
48 affixed my official seal, at the city of New York, this 27th day of June, in the year of our Lord one thousand eight hundred and sixty-three.

[SEAL.]

HENRY H. ELLIOTT,
U. S. Prize Com'r.

50 District court of the United States for the southern district of New York.

Deposition of Eben J. Locke, captain, a witness produced, sworn, and examined in preparatorio, on the 27th day of June, in the year eighteen and sixty-three, at the office of the U. S. prize comm'rs, 4 Pine street, on standing interrogatories established by the district court of the United States for the southern district of New York; the said witness having been produced for the purpose of such examination by E. Delafield Smith, esq., U. S. States district attorney, in behalf of the captors of a certain ship or vessel called the Isabella Thompson, a brig.

1. To the first interrogatory he saith: I was born in Shelbourne, Nova Scotia. I live now near Halifax. I have lived there about eight years. I am a subject of Great Britain. I owe allegiance to that crown. I am married. My wife and family live with me there.

2. To the second interrogatory he says: I was present at the capture in question.

51 3. To the third interrogatory he says: The capture was made, I think, on the 19th day of June instant, in lat'e 41 north and 67 longitude west; and the brig was sent to New York. I arrived yesterday in the U. S. ship United States. I had no commission authorizing me to make prizes. I was captured on suspicion of having run the blockade.

4. To the fourth interrogatory he says: I sailed under English colors, and had no other.

5. To the fifth interrogatory he says: I made no resistance. There were two guns fired by the gunboat United States. She made the capture. No other ships were in sight. The brig is a merchantman. The United States carries five guns.

6. To the sixth interrogatory he says: I don't know anything about the commission of the United States, which made the capture.

7. To the seventh interrogatory he says: The captured vessel is the Isabella Thompson, of Halifax. My name is Locke. I was her captain. I was appointed by the owner, James McDaniel, of Halifax, there. I have known the vessel since the 20th of

52 April last. I took possession of her there, in Halifax; the owner, McDaniel, put me in possession of her.

8. To the 8th interrogatory he says: The vessel is one hundred and four tons, (104.) Her company—captain, mate, three men, and steward, besides one passenger—all on board when taken; all are British subjects; all came on board at Halifax at the same time. I shipped them.

9. To the ninth interrogatory he says: I was the captain of the vessel. I had no interest in vessel or cargo, nor had any of my crew, nor the passenger.

10. To the 10th interrogatory he says: I have known the vessel since last April. I first saw her at Halifax. She carried no guns. She was built in the Bay of Fundy. I have never heard of any change in her name.

11. To the eleventh interrogatory he says: I was bound to Halifax; the voyage began there, and was to have ended there. I carried out a general cargo—lumber and fish—mostly to Nassau. She had cotton and turpentine on board when captured, which was put on board the early part of June instant. She has never car-
53 ried anything contraband, to my knowledge.

12. To the twelfth interrogatory he says: She had only her ordinary regular papers. We made no port between Halifax and Nassau, nor between Nassau and the place of capture, which was her present voyage. I was not in her on any former voyage, and know nothing about any former voyage or cargo. My last clearing port was Nassau, the 5th day of June instant. I sailed from there the 6th of June.

13. To the thirteenth interrogatory he says: I have already answered this question. I had on board, when captured, about 486 barrels of turpentine, and 81 bales of cotton, and no other cargo.

14. To the fourteenth interrogatory he says: James McDaniel was the owner of the vessel. I don't know who owns the cargo. It was shipped by Sanders & Sons, of Nassau. I don't know what countrymen they are.

15. To the fifteenth interrogatory he says: I don't know of any bill of sale of the vessel.

16. To the 16th interrogatory he says: This cargo was put on board about the first of this month, in the harbor of Nassau.
54 It was put on board by a Mr. Baker, the man who had charge of the schooner or lighter, or whatever she was, from which I took the cargo. My consignees were Sanders & Sons; and they sent the cargo off to me. I don't know what countrymen they are. I think they are Nassau men. I suppose it was shipped for their account. I don't know at whose risk it was. I did not know who sent it until I was coming away. It was sent by a man whose name I don't remember. Sawyer and Fernandez passed the entries through the custom-house. It was not Mr. Baker nor Mr. Sanders. I was to deliver the goods in Halifax to Benj. Weir & Co. I have already given the quantity and particulars of the cargo. I suppose when it arrives at Halifax it will belong to Weir & Co., so far as I know.

17. To the 17th interrogatory he says: I think I signed three bills of lading at Sanders and Son's office; they were not false, and are the same as were found on board, to the best of my knowledge. I don't know of any other bills of lading of any kind.

18. To the eighteenth interrogatory he says: I have no
55 other papers, and I know of no other, except those what were found on board, to show my interest or the interest of any other person in the vessel or cargo.

19. To the nineteenth interrogatory he says: I was captured in lat. 41° north and lon'e 67° west, on the 19th day of June inst., at sea. There was a charter-party for the voyage, which is now present, and which I now identify, (marked by the commissioner No. A. D,) and hereto annexed.

20. To the twentieth interrogatory he says: There were no papers on board except those delivered to the captors and the charter-party, now delivered and identified by me; no papers were thrown overboard, or cancelled, or destroyed in any way, nor concealed.

21. To the twenty-first interrogatory he says: I knew about the war in the United States, and have heard about the blockade of the southern ports. I never sailed in them nor out of them, nor any of them, except the port of Wilmington, about fifteen years ago.

22. To the twenty-second interrogatory he says: My vessel
56 never attempted to enter, nor sail from any port under blockade.

23. To the twenty-third interrogatory he says: The register of my vessel has never been examined by any officer of the United States prior to the capture.

24. To the 24th interrogatory he says: The vessel never attempted to enter or sail from a port under blockade, to my knowledge.

25. To the twenty-fifth interrogatory he says: She has never been seized as prize before now.

26. To the twenty-sixth interrogatory he says: I have not sustained any loss by the seizure, unless I lose my wages.

27. To the twenty-seventh interrogatory he says: I don't know any particulars about insurance. I think she was insured.

28. To the twenty-eighth interrogatory he says: I don't know anything in reply to this interrogatory.

29. To the twenty-ninth interrogatory he says: I suppose the cargo was the produce of the southern States.

30. To the thirtieth interrogatory he says: The cargo was put on board in the harbor of Nassau, from a vessel or boat alongside
57 of my vessel. I don't know the name of the vessel; I never heard the name of the vessel, nor where she was from. A man by the name of Baker was in charge of the cargo, and delivered it on board of my vessel.

31. To the thirty-first interrogatory he says: I know of no papers anywhere except those delivered to the captors.

32. To the thirty-second interrogatory he says: No papers were ever delivered out of the vessel in any way, except to the captors.

33. To the thirty-third interrogatory he says: Bulk has not been broken.

34. To the 34th interrogatory he says: There was one passenger on board, and only one; his name is Brooks; I don't know his Christian name. He is a sailor man—a common sailor man. He was going to Halifax. He went out from some part of the States, I think. I don't know anything more about him. No other persons were on board, except the crew of my vessel.

35. To the thirty-fifth interrogatory he says: All the papers are true and fair, so far as I know. I have not written nor signed any letters or papers concerning the vessel or cargo since her capture.

58 36. To the thirty-sixth interrogatory he saith: I was steering, as near as the weather would permit, to Halifax, at all

times. My course was not altered, except when necessary to make my direct course to my port of destination.

37. To the thirty-seventh interrogatory he says: I know of no sale of the vessel at any time.

38. To the thirty-eighth interrogatory he says: No guns were mounted on board, and there was no cargo of any kind, except cotton and turpentine.

39. To the thirty-ninth interrogatory he says: I have told all I know about the real and true property and destination of the vessel and cargo.

40, 41, 42, 43. To the 40th, 41st, 42d, and 43d interrogatories he says to each: I have no knowledge.

EBEN J. LOCKE.

Subscribed and sworn to this 27th day of June, 1863.

HENRY H. ELLIOTT,
U. S. Prize Com'r.

59 It is this day mutually agreed between Ja's McDaniel, owner of the brig'e, Isabella Thompson, of the burthen of one hundred and four tons or thereabouts, of Halifax, and William Pryor & Sons, merchants, of Halifax, as follows:

Ja's McDaniel agrees hereby to charter the said brigantine Isabella Thompson to Wm. Pryor & Sons, for a voyage at and from Halifax to Nassau, New Providence, from thence to New York, or from Halifax to Nassau, and to return to Halifax, with liberty in either case to proceed to a salt island for cargo, if so required by the agents of charterers. The said vessel now and at all times to be kept, during the charter, tight, staunch, and strong, and in every way well fitted and found for the said voyage.

W'm Pryor & Sons, on their part, agree to pay, as charter-money, for the faithful performance of the voyage, to the said James McDaniel, or his agents, the sum of eleven hundred and fifty dollars, together with all actual port charges, lighterage, as also ballast, if required, to move to load. It is agreed and understood be-
60 tween the parties aforesaid that one-half the charter-money, as aforesaid, is to be considered earned and due, and be paid at Nassau, and the other half or remainder at the final ports of discharge as above, say New York or Halifax. Lay days not to exceed twenty days at Nassau, and demurrage for every day's delay after that period to be paid said vessel at the rate of twenty dollars per day for each and every day so detained.

Penalty for non-performance of this agreement, by either party, five hundred dollars.

It is understood and agreed, by the parties of this charter-party, that if the brigantine proceeds to New York, that part of the charter-money due and to be paid there is to be paid in gold coin or its equivalent.

Signed at Halifax, Nova Scotia, this twenty-fifth day of April, 1863.

JA'S McDANIEL. [L. S.]
W'M PRYOR & SONS. [L. S.]

Witness:
JA'S A. ADAMS.

UNITED STATES OF AMERICA,
Southern District of New York, ss:

I, Henry H. Elliott, one of the prize commissioners appointed by the district court of the United States for the southern district of New York, in and for the said district, do hereby certify that the foregoing deposition of Eben J. Locke, captain, a witness produced on behalf of the captors, was taken by and under my direction, at the time and place mentioned in the caption thereof; that the same contains the answers of the said witness to the "standing interrogatories;" that before such examination was commenced, the oath directed by the 17th prize rule was by me daly administered to the witness, and he was thereupon afterwards examined, separate and apart from the other witnesses; that such examination was begun, continued, and finished, on the same day, and was by me, or under my direction, reduced to writing, and the same having been by me carefully read to him, was by him subscribed in my presence at the close of such examination.

In testimony whereof, I have hereunto set my hand and
62 [SEAL.] affixed my official seal at the city of New York, this 27 day of June, in the year of our Lord one thousand eight hundred and sixty-three.

HENRY H. ELLIOTT,
U. S. P. C.

64 ON BOARD BRIG ISABELLA THOMPSON, OF HALIFAX, N. S.,
Off Sandy Hook, New York Harbor, June 22d, 1863.

I, Gabriel English, a person of color, a native of St. John's, N. B., aged twenty-three years, and a British subject, do, of my own free will and accord, solemnly state that I shipped on board this vessel, as cook and steward, at the port of Halifax, N. S., on the twenty-third day of April, 1863, to serve for the period of six months, to proceed from the port of Halifax, N. S., to a port in the West Indies and back to Halifax, N. S., or a port in America. That we took in at Halifax, N. S. a general cargo of merchandise, and sailed on the twenty-seventh day of April, 1863, and arrived at Nassau, N. P., in the West Indies, on the twenty-first day of May, 1863, where, at anchor in the harbor, we discharged our cargo into lighters. We there remained at anchor until the twenty-eighth of May, 1863, when the schooner Arguile, hailing from Halifax, N. S., but well known to belong to Wilmington, N. C., hauled alongside of our vessel and commenced discharging her cargo, consisting of bales
65 of cotton and casks of turpentine into our vessel until we

were fully laden, with also deck load of bales of cotton. On the 6th day of June, 1863, we proceeded to sea, bound to Halifax, N. S. Nothing of moment occurred on the return passage until June 19, 1863. At noon we were boarded by a boat from the U. S. steamer United States, off Little George's bank, who took our captain on board the U. S. cruiser, and shortly after returned with him and a crew, consisting of two officers and three men, our captain, mate, and crew, with the exception of myself, who remained in my capacity as cook and stewart with the new crew, were ordered to go on board the U. S. cruiser, which they did. The U. S. cruiser then left us, and we proceeded towards New York. I further state that the British flag has been respected, and has been ordered to be hoisted when necessary to distinguish the nationality of the vessel or other maritime purposes; also, that I was immediately informed, after the U. S. cruiser's crew took charge, that no cargo or stores belonging on board the brig were to be used as provisions for the officers or crew. I further state that, while receiving cargo at
66 Nassau, N. P., from the schooner Arguile, I frequently conversed with the officers and crew; that they stated to me, and in my presence, that although the schooner Arguile hailed from Halifax, N. S., she belonged to Wilmington, N. C., and had but a few days previous succeeded in running the blockade off Wilmington, N. C., with the identical cargo of cotton and turpentine now on board this brig; further, that the captain and mate of this vessel were fully aware of these facts. I further state, that I have been well treated and respected, in my capacity as cook and steward, on board, by the naval officers and crew now on board; further, that I make this statement to William Jay Murphy, of the U. S. navy, now acting as executive officer of this vessel, of my own free will and accord, and without any promise or expectation of reward whatever.

GABRIEL ENGLISH,
Cook and Steward.

HOWARD T. MOFFATT,
JOHN MCDONELL,
Witnesses to signatures.

68 District court of the United States for the southern district of New York.

In the matter of the brig Isabella Thompson and her cargo, taken as a prize.

SOUTHERN DISTRICT OF NEW YORK, *ss:*

Howard F. Moffat, being duly sworn, deposes and says that he is acting ensign in the United States navy, attached to the United States steamer United States, Lieutenant Commander Meade; that deponent arrived in this port in charge, as prize-master of the above-named brig Isabella Thompson, a prize captured at sea, in lat'de 40 north, long. 67° 10′ west, or thereabouts, by the above-

named steamer United States; that the said capture was made on Friday the 19th day of June instant, on suspicion of having on board a cargo which had run the blockade out of Wilmington, and been transferred to the Isabella Thompson, or that the latter had run the blockade herself; that deponent was present at the time of capture; that at that time Lieut. Meade supposed the brig had run the blockade, and captured her under that impression; that her captain and crew were transferred to the steamer United States, and now remain on board of said steamer, except the steward, a colored man, brought in in the prize by the deponent; that the papers found on board the said prize were delivered to deponent by Lieut. Meade, and are now delivered to the prize
69 commissioners, and are as follows:

* One log-book, marked A.
" envelope, marked B.
" do. marked C.
" receipt, marked D.
" order or mem'a, marked E.
" bill of exchange, marked F.
Two bills lading, marked G and H.
" two invoices, marked I and K.
" letters, marked L and M.
One clearance, Nassau, marked N.
" do. Halifax, marked O.
" British register, marked P.
" Crew list, marked R.

* See folio 171 to 217.

That deponent has delivered to the prize commissioners each and every document, paper, and writing, received by him relating to the aforesaid captured property, in the same state and condition in which he received them, without any "fraud, subduction, or embezzlement," and without any additions or alterations whatever; and he does not know, nor does he believe, that any of the documents, papers, and writings so received, are missing or wanting.

The deponent further says that, if at any time hereafter, and before the final condemnation or acquittal of the said captured property, any further or other papers relating thereto shall be found or discovered to his knowledge, they shall be delivered up, or information thereof given to the prize commissioners of this district or to this court.

HOWARD F. MOFFAT.

Subscribed and sworn to this 23d day of June, 1863.

HENRY H. ELLIOTT,
U. S. Prize Com'r.

70 Exhibits B, C, D, E, F, G, H, I, K, L, M, N, O, P, R, as follows:

Envelope marked: Isabella Thompson; Messrs. Benj. Wier & Co., Halifax, Nova Scotia. B.—H. H. E.

Envelope marked: Consignees, Messrs. B. Wier & Co., Halifax, Nova Scotia. C.—H. H. E.

PORT OF HALIFAX, N. S.

Received from Eben J. Locke, master of the ship or vessel called the Isabella Thompson, of the burthen of 104 tons, the sum of ten dollars and 40 cents currency, being the amount of light duty on said vessel for the year ended 31st March, 1864.

27th day of April, 1863.

104 tons, *a* 10 cents—$10 40.

H. B. PAULM, *Collector.*

D.—H. H. E.

71 Please forward letter to D. P. & Co., and oblige yours,

M. & CO.

E.—H. H. E.

Third.—Exchange for £100 0 0.

NASSAU, N. P.,
Bahamas, 4 *June*, 1863.

Sixty days after sight of this third of exchange, (first and second of same tenor and date unpaid,) pay to the order of Messrs. Saunders & Son the sum of one hundred pounds, for value received, and place the same to account of—

Your obedient servant,

M. H. HULL.

To Messrs. BOSANQUET & Co.,
Bankers, 73 *Lombard st.*, *London.* F.—H. H. E.

Endorsed: Pay to Jas. McDaniel, esq., or order. Saunders & Son.

G.—H. H. E.

Shipped in good order and well-conditioned, by Martin & Co., on board the Br. brig called the Isabella Thompson, whereof Lock is master, now lying in the port of Nassau, and bound for Halifax, N. S., to say: eighty-one bales cotton, and four hundred and eighty-six casks spirits of turpentine, of which thirty-seven bales of cotton are on deck, being marked and numbered as in the margin, and are to be delivered in the like good order and condition, at the aforesaid port of Halifax, (the dangers of the seas only excepted,) unto Messrs. B. Weir &. Co., or to their assigns, he or they paying freight for the said cargo, six hundred and fifty dollars, with primage and average accustomed.

81 bales cotton.
486 casks sp't turp't.

Freight $650.

In witness whereof, the master or purser of the said vessel hath affirmed to 6 bills of lading, all of this tenor and date; one of which being accomplished, the others to stand void.

Dated in Nassau, the 5th day of June, 1863.

E. J. LOCKE.

H.—H. H. E.

Shipped in good order and well-conditioned, by Martin & Co., on board the Br. brig called the Isabella Thompson, whereof Locke is

master, now lying in the port of Nassau, and bound for Halifax, N. S., to say: eighty-one bales cotton, and four hundred and eighty-six casks spirits of turpentine, of which thirty-seven bales of cotton are on deck, being marked and numbered as in the margin, and are to be delivered in the like good order and condition, at the aforesaid port of Halifax, (the dangers of the seas only excepted,) unto Messrs. B. Weir &. Co., or to their assigns, he or they paying freight for the said cargo, six hundred and fifty dollars, with primage and average accustomed.

81 bales cotton.
486 casks sp't turp't.

Freight $650.

In witness whereof, the master or purser of the said vessel hath affirmed to 6 bills of lading, all of this tenor and date; one of which being accomplished, the others to stand void.

Dated in Nassau, the 5th day of June, 1863.

E. J. LOCKE.

72 (Copy.)

Invoice of cargo, shipped by Martin & Co., in Br. brig "Isabella Thompson," Locke, master, bound for Halifax, N. S., consigned to Messrs. B. Weir & Co., for ac. and risk shippers.

81 bales cotton, weigh'g 36,567 lbs., 37 c.....		13,529 79
486 casks sp'ts turpentine, gaug. 20,158 galls., 1 45..		29,229 10
		42,758 89
Charges:		
For labor, &c.	28 00	
Comm'n, 27 p. c.....	1,068 97	
		1,096 97
		$43,855 86

Nassau, N. P., June 5, '63. MARTIN & CO.

I.—H. H. E.

73 *Invoice of cargo, shipped by Martin & Co., on board Br. brig "Isabella Thompson," Locke, master, bound for Halifax, N. S., consigned to Messrs. B. Weir & Co., for ac. and risk shippers.*

81 bales cotton, weigh'g 36,567 lbs., *a* 37		13,529 79
486 casks sp'ts turp't, gaug'g 20,158 galls., 1 45		29,229 10
		42,758 89
Charges:		
For labor, &c.....	28 00	
" comm'n, 2½ p. c.....	1,068 97	
		1,096 97
		$43,855 86

Nassau, N. P., June 5, 1863. MARTIN & CO.

K.—H. H. E.

74 L.—H. E. E.—"Isabella Thompson."

NASSAU, N. P., *June* 5, 1863.

Messrs. B. WIER & Co., *Halifax, N. S.:*

DEAR SIRS: We are in receipt of yours of 8th May, contents noted, your craft has not yet arrived—will care for her when she does.

We have sent by this brig a cargo consisting of 486 casks spirits of turpentine, and 81 bales of cotton. We desire it disposed of most to our advantage, either by shipping to England or America, as may appear. We shall write Messrs. Dollner, Potter & Co., of New York, immediately on arrival of the brig. You will telegraph to them, and request their instructions. The vessel can doubtless be had to go to a 2d point if it promises better results; it would be much better than to break bulk, as you are aware spirits of turpentine is very delicate to handle. We enclose invoice of value here and bills lading. We are happy to announce to arrival of the schooner "Argyle," with a full and valuable cargo, ab't $42,000. The old thing is about being used up—her bottom being badly wormed.

You will, of course, upon consultation with Capt. Clements, and Dollner, Potter & Co., if they so decide it most to the interests of all concerned, sell at Halifax. We do not like to have our property shipped on our ac. to U. S.

Capt. Clements is the owner of one-half the cargo, being that bro't out by "Agle."

We are largely into steamers; one leaves about 10th, for
75 Dixie, with valuable cargo; will bring back 1,200 bales cotton.

Don't you want to invest $3 to 5 dollars in a good co. One co's stock is already worth 1,200 p. c. in cost in gold.

We are doing quite well. Write often.

Yours, resp'f'ly,

MARTIN & CO.

M.—H. H. E.—"Isabella Thompson."

NASSAU, N. P., *June* 5, 1863.

Messrs. DOLLNER, POTTER & Co., *New York:*

DR. SIRS: We enclose herewith invoice and b. l. of cargo on board brig "Isabella Thompson," consigned to Messrs. B. Wier & Co. We have instructed them to confer with you in regard to its disposition, as under our present situation we cannot ship our stuff to you direct. You will order it wherever you may, on consultation with them, agree is most to our interests. We have instructed them of this fact. The cargo is jointly owned by the owners of the A 1 boat.

We are happy to tell you the famous boat arrived ten days ago with 460 casks spirits, 90 bales cotton, and 50 to 60 bbls. No. 2 rosin in bulk, which we shall send to you as soon as a chance offers. We've also 28 bales on hand. We will write you by steamer at once so as to go on Monday.

Yours, truly,

MARTIN & CO.

76 N.—H. H. E.

PORT OF NASSAU,
Receiver General's Office.

These are to certify to all whom it doth concern, that the Br. brig "Isabella Thompson," whereof Locke is master, has been duly cleared at this office for Halifax, N. S., with a cargo consisting of

486 bbls. sp'ts turpentine;
81 bales upland cotton.

Given under my hand at the aforesaid port, this fifth day of June, in the year of our Lord one thousand eight hundred and sixty-three.

E. B. A. TAYLOR,
Act. Rec'r Gen'l, Treas'r.

77 O.—H. H. E.

PORT OF HALIFAX, N. S.

These are to certify to all whom it doth concern, that E. J. Lock, master or commander of the brig "Isabella Thompson," burthen 104 tons, mounted with no guns, navigated with 6 men, B. P. built, and bound for Nassau, N. P., having on board—

One hundred and fifty kegs soda, twenty-five bbls. salts, twenty bbls. copperas, three hundred boxes logwood, ten cases cotton cards, twenty cases paper, forty-four cases boots and shoes, ex warehouse, fifty M seven hundred and twenty feet boards and plank, twenty bbls., fifty-one half bbls., one hundred kits mackerel, one hundred kits salmon, fifty boxes, one hundred and two qr. boxes hake, thirty-four M shingles, production and manufacture of this province and British fisheries, hath here entered and cleared his said vessel according to law.

Given under our hands at the custom-house, at the port of Halifax, in the province of Nova Scotia, this 27th day of April one thousand eight hundred and sixty-three.

H. B. PAULM, *Contr'l'r.*

78 P.—H. H. E.—Form No. 9.—Sailing ship.

Certificate of British registry.
(Royal arms.)

Official number of ship—37,176.
Port number—Thirty-eight, (38.)
Date of Registry—5 August, 1862.
Name of ship—Isabella Thompson.
British or foreign built—British built, at St. Martin's, N. Brunswick, in 1861.
Port of registry—Halifax.
How propelled—By sails.

Number of decks—one.
Number of masts—two.
Rigged—schooner.
Stern—square.
Build—carvel.
Galleries—no.
Head—billet.
Framework—wood.

Measurements.	Feet.	Tenths.
Length from the forepart of stem, under the bowsprit, to the aftside of the head of the stern-post	74	5
Main breadth to outside plank	23	2
Depth in hold, from tonnage deck to ceiling, at midships	9	2

Name and address of builder—Thomas Fownes, St. Martin's, N. Brunswick.

Tonnage.	No. of tons.
Tonnage under tonnage deck	99.27
Closed-in spaces above the tonnage deck, if any, viz: Space and spaces between deck's poop.	
Round-house	5.55
Other inclosed spaces, if any, naming them.	
Total register tonnage	104.82

79 I, the undersigned, registrar of the port of Halifax, hereby certify that the ship, the description of which is prefixed to this my certificate, has been duly surveyed, and that the above description is true; that Israel Flick, whose certificate of competency or service is No. ——, is the master of the said ship, and that the name, residence, and description of the owner, and number of sixty-fourth shares held by him, are as follows:

Name, residence, and occupation of the owner—James McDaniel, of Halifax, Nova Scotia, master mariner.

Number of sixty-fourth shares—sixty-four, 64.

Dated at Halifax, Nova Scotia, the 5th day of August, one thousand eight hundred and sixty-two.

H. B. PAULM, *Registrar.*

☞NOTICE.—A certificate of registry, granted under the "Merchant shipping act, 1854," is not a document of title. It does not necessarily contain a notice of all changes of ownership; and in no case does it contain an official record of any mortgages affecting the ship.

Endorsed: Custom-house, Halifax, 6th February, 1863. Thomas P. Jost has now become master in the room of Israel Flick.

H. B. PAULM, *Registrar.*

CUSTOM-HOUSE, *Halifax, April* 27, 1863.

Eben J. Locke has now become master in the room of T. P. Jost.

H. B. PAULM, *Registrar.*

80 An agreement made pursuant to chap. seventy-six, title twenty-one, of an act of the general assembly of Nova Scotia, passed in the fourteenth year of the reign of her majesty Queen Victoria, between E. J. Locke, master of the Isabella Thompson, of the port of Halifax, of the burthen of 104 tons, and the several persons whose names are subscribed hereto. It is agreed by and on the part of the said persons, and they severally hereby engage to serve on board of the said ship in the several capacities against their respective names expressed on the voyage from the port of Halifax to a port or ports in the West Indies; from thence to a port in U. States and back to the port of Halifax, or elsewhere.

And the said crew further engage to conduct themselves in an orderly, faithful, honest, careful, and sober manner, and to be at all times diligent in their respective duties and stations, and to be obedient to the lawful commands of the master or his successors and officers, in everything relating to said ship, and the materials, stores, and cargo thereof, whether on board said ship, in boats, or on shore. Any man absent one hour from the ship at her outward port or ports of delivery, before her cargo is discharged, without permission from the master, to forfeit one month's pay. That one hour's absence from the ship, within twenty-four hours previous to her intended departure from any port, to be deemed a desertion. That any seaman, who shall actually desert the ship, shall forfeit to the owner or master all his clothes and effects, which he may have on board, and all wages and emoluments to which he might otherwise be entitled. That should any liquor, or any other article of cargo or stores, that may be received on board the said vessel, or boats belonging thereto, be embezzled or negligently damaged or lost, the same shall be made good to the master and owners, by the officers, seamen, or other persons by whose means it may happen. That if any officer or seaman shall enter themselves as qualified for a duty to which he shall not prove competent, he shall be subject to a reduction of wages hereby agreed for in proportion to his incapacity, as shall be adjudged by the master, and one or more of his officers. That neither of the said officers, seamen, mariners, or others, shall demand or be entitled to his discharge until the final discharge in Halifax, and term of time not to exceed six months. In consideration of which services to be duly, honestly, carefully, and faithfully performed, the said master doth hereby promise and agree to pay the said crew by way of compensation or wages, the amount against their names respectively expressed. In witness whereof the said parties have hereunto subscribed their names on the days against their respective signatures mentioned.

R.—H. H. E.

Place and name of entry.	Men's names.	Age.	Place of birth.	Quality.	Amount of wages.	Money advanced.	Sureties for seamen.	Witness to execution.	Name of ship in which seamen last served.
Halifax, N. S., April 24, 1863	Thomas Stephens	26	Halifax	Mate	$20 00				Isabella Thompson.
	Nelson Holmes	26	Indian Harbor, N. S	Seaman	14 00	$14, by note		James McDaniel	Maria.
	William Steel	20	Scotland	Seaman	15 00	15, by note			Dashaway.
Commenced April 27	William × Magennis	22	Masoret's Bay, N. S.	Seaman	15 00	15, by note			Jane Bell.
	Thomas × Leslie	19	Masoret's Bay	Seaman	14 00	14, by note			Jane Bell.
	Gabriel English	23	St. John's, N. B	Steward	15 00	7 50			Express.
June 10	John Brooks	29	England	Seaman	00 50	00 50			

81 At a stated term of the district court of the United States of America for the southern district of New York, held at the United States court-rooms, in the city of New York, on Friday, the thirty-first day of July, in the year of our Lord one thousand eight hundred and sixty-three.

Present: The honorable Samuel R. Betts, district judge.

THE UNITED STATES
vs.
THE BRIG ISABELLA THOMPSON, her tackle, &c, and cargo. } In prize.

This cause having been heard on the libel, and proofs and testimony taken *in preparatorio*, and submitted without written briefs by either party; and due deliberation being had in the premises, now, on motion of Beebe, Dean & Donohue, proctors for the claimants, it is ordered, adjudged, and decreed by the court, that the said brig Isabella Thompson, her tackle, &c., and cargo be released from custody, and restored to the claimants respectively, but without damages or costs as against the United States or captors.

And it is further ordered, adjudged, and decreed, that the libellants, on four day's notice to the proctors of the claimants, have leave to move that further proofs be introduced by them as to the illicit dealing on the part of the brig, subjecting her to forfeiture therefor.

SAM'L R. BETTS.

82 Final decree of restitution of vessel and cargo, without costs or damages, and leave to libellants, on 4 day's notice, to move for introduction of further proof, &c.

E. DELAFIELD SMITH,
U. S. Dist. Att'y.
BEEBE, DEAN & DONOHUE,
P'rs for Cl'm'ts.

Service of a copy of the within decree is hereby admitted.
New York, , 186 .

Filed 31 July, 1863.

83 At a stated term of the district court of the United States of America for the southern district of New York, held at the United States court-rooms, in the city of New York, on Tuesday, the eighteenth day of August, in the year of our Lord one thousand eight hundred and sixty-three.

Present: The honorable Samuel R. Betts, district judge.

In open court.

THE UNITED STATES
vs.
THE BRIG "ISABELLA THOMPSON," her tackle, &c., and cargo. } In prize, 18, 17.

The U. S. district attorney, on the part of the libellants herein, not having moved for leave to introduce further proofs in this cause, in

pursuance of the terms of the decree made and entered the 31st day of July, 1863, and no further proof having been by him offered or put in evidence herein, it is now, on motion of Beebe, Dean & Donohue, proctors for the claimants, ordered and decreed that the decree entered on the 31st July, 1863, aforesaid, be, and the same is hereby, made final and absolute.

Correct: G. P. A.

SAM'L R. BETTS.

84 Final decree.

BEEBE, DEAN & DONOHUE,
Proctors for Claimants of vessel and cargo.

Filed the eighteenth day of August, 1863.

85 U. S. district court.

THE UNITED STATES and CAPTORS, Libellants,
vs.
THE BRIG ISABELLA THOMPSON, her tackle, &c., and cargo; NEHEMIAH K. CLEMENTS, cl'm't of cargo. } In prize.

GENTLEMEN: Please take notice that the claimant herein appeals from so much of the final decree as withholds damages, costs, and expenses to said claimant, to the Supreme Court of the United States at Washington, in the District of Columbia, in pursuance of section 7 of the act of Congress approved March 3d, 1863.

Yours, &c.,

New York, August 19, 1863.

BEEBE, DEAN & DONOHUE,
P'r for Claimant, ca'go.
E. DELAFIELD SMITH, Esq.,
U. S. Dist. Att'y.
GEO. F. BETTS, Esq., *Clerk.*

Copy.—Notice of appeal.

GEO. W. BETTS, Esq.

I admit due service of a notice of which the within is a copy. Dated Aug. 19, 1863.

E. DELAFIELD SMITH,
U. S. Dist. Att'y.

Filed 19th Aug't, 1863.

86 U. S. district court, southern dist. of New York.—In prize.

THE UNITED STATES and CAPTORS, libellants,
vs.
THE BRIG ISABELLA THOMPSON, &c., and cargo; JAMES McDANIEL, claimant of vessel.

GENTLEMEN: Please take notice that the claimant herein appeals from so much of the final decree as withholds damages, costs, and

expenses to said claimant, to the Supreme Court of the United States at the city of Washington, in the District of Columbia, in pursuance of section 7 of the act of Congress approved March 3d, 1863.

Yours, &c.,
BEEBE, DEAN & DONOHUE, or CLERK.

New York, , 1863.
To E. DELAFIELD SMITH, Esq.,
U. S. Dist. Att'y.
GEORGE F. BETTS, Esq., *Clerk.*

87 Endorsed: 18, 17. In prize. U. S. district court, S. D. of N. Y. The United States and Captors *vs.* The brig Isabella Thompson, her tackle and cargo. James McDaniel, cl'm't of vessel.

Notice of appeal of cl'm't of vessel.
BEEBE, DEAN & DONOHUE,
P'rs Cl'm't.

I admit due service of a notice of which the within is a copy.
Dated , 1863.
Filed , 1863.

88 BRIG ISABELLA THOMPSON, her tackle, apparel, and furniture, JAMES MCDANIEL, claimant of said vessel,
ads.
THE UNITED STATES.

To the honorable the Supreme Court of the United States:

The appeal of James McDaniel, owner of the brig Isabella Thompson, respectfully shows, that, on the 19 day of June, 1863, the above-named United States filed a libel in the district court of the United States for the southern district of New York against the brig Isabella Thompson, in a cause of prize for the forfeiture of said vessel as prize of war; and the said brig was arrested upon process issued upon said libel, and your petitioner duly intervened and claimed said vessel, and such proceedings were had in said cause that on the 31st day of July, 1863, a final decree was made and pro-
89 nounced therein by the said district court, wherein it was in substance adjudged that the said vessel, her tackle, apparel, and furniture should be restored to the respective claimants, but without costs or damages. The said decree adjudges and pronounces that there was cause for the seizure thereof, which said decree, inasmuch as it withholds payment of the costs, damages, and expenses of petitioner from him, he alleges to be erroneous and should be reversed. Wherefore this appellant appeals from so much of said decree as withholds from him, for any cause, the payment of his costs, damages, and expenses incurred by him in consequence of the seizure of his said vessel, or in anywise affects the payment to him thereof, and he respectfully prays that the said decree of the district court, and the pleadings, evidence, and proceedings in said

cause may be sent to the Supreme Court of the United States without delay; that the said Supreme Court will proceed to hear the said cause anew, and that so much of the said decree as withholds
90 the payment of his costs, damages, and expenses may be reversed, and a degree made thereon, that claimant's costs, damages, and expenses in the matter be paid to him, or that such other decree be made in the premises, as to said court shall seem just.

BEEBE, DEAN & DONOHUE,
For Cl'm't.

JAMES McDANIEL.

91 Copy of petition.

GEO. F. BETTS, Esq.

Filed 25 Aug't, 1863.

I admit due service of a copy of the within appeal.
Aug. 25, 1863.
(Signed) E. DELAFIELD SMITH,
U. S. Dist. Att'y.

92 BRIG ISABELLA THOMPSON, her tackle, apparel and furniture, and the cargo laden on board thereof, NEHEMIAH K. CLEMENTS claimant of said cargo,
ads.
THE UNITED STATES.

To the honorable the Supreme Court of the United States:

The appeal of Nehemiah K. Clements, owner of the cargo of the above-named vessel, to wit: 486 barrels of spirits of turpentine, and eighty-one bales of cotton, respectfully shows, that on the 24th day of June, 1863, the above-named United States filed a libel in the district court of the United States for the southern district of New York, against the brig Isabella Thompson and her cargo, in a cause of prize, for the forfeiture of said vessel and cargo as prize of war. And the said brig and cargo was arrested upon process issued upon said libel, and duly intervened and claimed said cargo, and such
93 proceedings were had in said cause that on the 31st day of July, 1863, a final decree was made and pronounced therein by the said district court, wherein it was, in substance, adjudged that the said vessel, her tackle, apparel, and furniture, and her cargo, should be restored to the respective claimants, but without costs or damages, the said decree adjudging and pronouncing that there was cause for the seizure thereof, which said decree in or as much as it withholds payments of the costs, damages, and expenses of petitioner from him, he alleges to be erroneous, and should be reversed.

Whereof this appellant appeals from so much of said decree as withholds from him, for any cause, the payment of his costs, damages, and expenses incurred by him in consequence of the seizure of his said cargo, or in anywise affects the payment to him thereof, and he

respectfully prays that the said decree of the district court
94 and the pleadings, evidence, and proceedings in said cause may be sent to the Supreme Court of the Unted States without delay, that the said Supreme Court will proceed to hear the said cause anew, and that so much of the said decree as withholds the payment of his costs, damages, and expenses may be reversed, and a decree made therein that claimant's costs, damages, and expenses in the matter be paid to him, or that such other decree be made in the premises as to said court shall seem just.

N. K. CLEMENTS.

BEEBE, DEAN & DONOHUE,
Pr's for Appellant.

95 Filed 19th Aug't, 1863.

96 By the honorable Samuel R. Betts, judge of the district court of the United States for the southern district of New York.

To E. Delafield Smith, esq., attorney of the United States for the southern district of New York, acting on behalf of the United States in the suit in prize of the United States of America, libellants and captors, in interest against the brig Isabella Thompson and cargo.

Whereas Nehemiah K. Clements, of Yarmouth, Nova Scotia, claimant of the cargo of the above vessel, hath lately appealed to the Supreme Court of the United States, at the city of Washington, in the District of Columbia, in pursuance of section 7 of the act of Congress approved March 3, 1863, from a decree rendered by the judge of the district court of the United States for the southern district of New York, made in favor of you, the said claimant, and whereby the said cargo was restored to the claimant, but without costs or damages as against the libellants or captors, and has filed the security required by law:

You are, therefore, hereby cited to appear before the said Supreme Court, at the city of Washington, on the first Monday of December next, to do and receive what may appertain to justice to be done in the premises.

Given under my hand at the city of New York, in the southern district of New York, the nineteenth day of August, in the year of our Lord one thousand eight hundred and sixty-three, and of the independence of the United States the eighty-eighth.

SAM'L R. BETTS.

97 Filed 19th August, 1863.

Due service admitted of a copy of within citation.
Aug't 19, 1863.

E. DELAFIELD SMITH,
U. S. Dist. Att'y.

98 By the honorable Samuel R. Betts, judge of the district court of the United States for the southern district of New York.

To E. Delafield Smith, esq., attorney of the United States for the southern district of New York, acting on behalf of the United States in the suit in prize of the United States of America, libellants and captors, in interest against the brig Isabella Thompson and her cargo.

Whereas James McDaniel, claimant of the above vessel, hath lately appealed to the Supreme Court of the United States, at the city of Washington, in the district of Columbia, in pursuance of section 7 of the act of Congress approved March 3, 1863, from a decree rendered by the judge of the district court of the United States for the southern district of New York, made in favor of the said claimant, and whereby the said vessel was restored to the claimant, but without costs or damages as against the libellants or captors, and has filed the security required by law.

You are, therefore, hereby cited to appear before the said Supreme Court, at the city of Washington, on the first Monday of December next, to do and receive what may appertain to justice to be done in the premises.

Given under my hand at the city of New York, in the southern district of New York, the nineteenth day of August, in the year of our Lord one thousand eight hundred and sixty-three, and of the independence of the United States the eighty-eighth.

SAM'L R. BETTS.

99 Filed Aug't 19th, 1863.

Due service admitted of a copy of within citation.
N. Y., Aug't 19, 1863.

E. DELAFIELD SMITH,
U. S. Dist. Att'y.

A.—H. H. E.—LOG-BOOK—VOYAGES OF THE BRIG ISABELLA THOMPSON, COMMANDED BY —— ——.

101 *Brig Isabella Thompson from Halifax towards Barbadoes.*

H.	K.	H. K.	Courses.	Winds.	Lee way.	Remarks.
1	3	.....	South	NE	36 miles allowed east in Gulf Stream.	*Tuesday, Feb'ry* 10, 1863.—Begins with light winds and fine clear wr.
2	.....	.....	.....	.....		
3	4	.....	S. SE.	S		
4	.....	.....	.....	.....		
5	5	4	.....	.....		
6	.....	.....	.....	.....		
7	7	.....	.....	.....		Midnight a fresh breeze with passing clouds.
8	.....	.....	.....	.....		
9	7	4	S. SW	SE		
10	.....	.....	.....	.....		
11	7	4	.....	.....		At 8 a. m. single-reefed mainsail and fore-topsail, and furled tight sails.
12	.....	.....	.....	.....		
1	5	4	SW	S. SE		
2	.....	.....	.....	.....		
3	5	.....	.....	.....		
4	.....	.....	.....	.....		
5	4	.....	W. SW	South		Noon more moderate, with passing showers; tacked ship.
6	.....	.....	.....	.....		
7	6	.....	.....	.....		
8	.....	.....	.....	.....		
9	5	.....	W. NW	SW		
10	.....	.....	.....	.....		Pumps regularly attended.
11	6	.....	.....	.....		Lat. by obs., 39° 53′ N.
12	.....	.....	.....	.....		Variation, 1¼ p. westerly.
1	.....	.....	.....	.....	24 miles allowed on an east cruise for Gulf Stream.	
2	4	4	S. by E	West		*Wednesday, Feb'ry* 11, 1863.—Begins with an increasing breeze and passing rain squalls.
3	.....	.....	.....	.....		
4	4	4	.....	.....		
5	.....	.....	.....	.....		
6	5	4	.....	W. NW		Midnight, blowing fresh; lowered the mainsail and run under foresail and reefed topsail, the sea rising fast.
7	.....	.....	.....	.....		
8	5	4	.....	NW		
9	.....	.....	.....	.....		
10	6	4	.....	.....		
11	.....	.....	.....	.....		4 a. m., strong gales and a heavy sea running; the brig laboring and making much water.
12	6	4	.....	.....		
1	.....	.....	.....	.....		
2	7	4	.....	.....		
3	.....	.....	.....	.....		
4	8	.....	.....	.....		Noon, more moderate; turned reef out of topsail, and set T. G. sail.
5	.....	.....	.....	.....		
6	8	.....	.....	.....		
7	.....	.....	.....	.....		
8	8	.....	.....	N. NW		
9	.....	.....	.....	.....		
10	7	.....	.....	.....		Pumps attended to.
11	.....	.....	.....	.....		Lat'd by obs., 37.
12	7	.....	.....	.....		Variation, 1 point W.

102 *Brig Isabella Thompson from Halifax towards Nassau, N. P.*

1	.....	.....	.....	.....	.....	*Thursday, Febr'y* 12, 1863.—Commences with fine clear wr. and a moderate breeze.
2	6	4	S. by W	N. NW	.....	
3	.....	.....	.....	.....	.....	
4	6	4	.....	.....	.....	
5	.....	.....	.....	.....	.....	
6	5	4	.....	.....	.....	
7	.....	.....	.....	.....	.....	
8	4	.....	.....	.....	.....	Midnight, light airs and baffling.
9	.....	.....	.....	.....	.....	
10	4	.....	.....	North	.....	
11	.....	.....	.....	.....	.....	
12	3	4	.....	.....	.....	
1	.....	.....	.....	.....	.....	
2	3	.....	.....	.....	.....	8 a. m. do.; wind and wr.; set the mainsail single-reefed.
3	.....	.....	.....	.....	.....	
4	2	.....	.....	.....	.....	
5	.....	.....	.....	.....	.....	
6	2	.....	S. SW	S. SE	¼	
7	.....	.....	.....	.....	.....	
8	1	.....	.....	.....	¼	
9	.....	.....	.....	.....	.....	
10	4	.....	W. NW	SW	¼	Noon, an increasing breeze and cloudy.
11	.....	.....	.....	.....	.....	Pumps regularly attended.
12	4	.....	.....	.....	¼	Var., ¾ pt. Sun obscure

Brig Isabella Thompson from Halifax towards Nassau, N. P.

H.	K.	H. K.	Courses.	Winds.	Lee way.	Remarks.
1						*Friday, Feb'ry 13th*, 1863.—A fresh breeze and cloudy.
2	2		W. NW	S. W	1	
3						
4	2	4				
5						
6	2		S. SE		2	2 p. m. fresh gales; close-reefed mainsail and topsail, and furled foresail and tacked ship.
7						
8	2		S. SW	West	3	
9						
10	2				3	
11						8 p. m. clear wr., blowing strong.
12	2				3	Midnight do.; wind and wr.
1						
2	2	4	S. by E		1	
3						
4	3				1	10 a. m. hard squalls, with rain, thunder, and lightning; ship laboring heavy.
5						
6	2		S. by W		2	Noon do.; wind and weather.
7						
8	3				2	
9						
10	3				2	Pumps regularly attended.
11						Var., ¼ pt. west.
12	3				2	Sun obscure.
103						
1						*Tuesday, April 28th*, 1863.—At 8 p. m. Sambra light, bearing N. NE., dist. 12 miles.
2						
3						
4						
5						
6						
7						
8			South	W. NW		
9						
10	3					At midnight, light airs and clear weather.
11						
12	3					
1						
2	3		S. SE	SW		
3						
4	3					
5						Men employed at sundry jobs.
6	3					
7						
8	3		SE	S. SW		
9						
10	3					
11						Variation, 1¾ p. W.
12	3					Lat. by obs., 43 27 N.
1						*Wednesday, April 29th*, 1863.—At 2 p. m. moderate and clear weather.
2	4		SE. by E	S. by W		
3						
4	4					
5						
6	4					
7						
8	4					Men employed at sundry jobs.
9						
10	4		West	S. SW		
11						
12	4					
1						
2	3					
3						At 8 p. m. tacked ship, all sail set.
4	3					
5						
6	2					
7						
8	2					
9						
10	2					Pumps regularly attended to.
11						At 8 a. m. light airs.
12	2					Lat. by obs., 43 11 N.

104 *Brig Isabella Thompson from Halifax towards Nassau, N. P.*

H.	K.	H. K.	Courses.	Winds.	Lee way.	Remarks.
1						*Thursday, April 30th*, 1863.—At 8 p. m. moderate, and a smooth sea at 6 p. m.; commenced to rain; furled the royal and gaft topsail, hoisted the flying jib; at 10 wind increasing; took in top-gallant sail and mn. to staysail, and midden stay-sail; a heavy sea a running at 8 a. m.; wore ship; clears off.
2	4		SW. by W.	South	½ p.	
3						
4	4					
5						
6	5					
7						
8	5		SW. by S.	SE.		
9						
10	6					
11						
12	6					
1						
2	5					
3						
4	4		W. by S.	S. by W.		
5						
6	3					
7						
8	3		N. NW.	SW.		
9						
10	3		SW. by S.	W. NW.		
11						
12	3					Lat. by obs., 42 22.
1						*Friday, May 1*, 1863.—First part them 24 hours moderate.
2	1					
3						
4	1		SW. by S.	NE		
5						
6	3					
7						
8	4					
9						
10	6					
11						At midnight, strong breeze.
12	6					
1						
2	6					
3						
4	6					At 8 a. m. fine weather; men employed at sundry jobs.
5						
6	6					
7						
8	6					
9						
10	6					
11						
12	5					Lat. by obs., 40 41.
105						
1			S. SW.	N. NE.		*Saturday, May 2*, 1863.—These 24 hours moderate all through.
2	4					
3						
4	4					
5						
6	4					
7						
8	3					
9						At midnight very smooth and clear weather.
10	3					
11						
12	3					
1						
2	3					
3						
4	3					Men employed at sundry jobs.
5						
6	2					
7						
8	2					
9						
10	2					
11						
12	2					1 p. var. Lat. by obs., 39 47 N.

Brig Isabella Thompson from Halifax towards Nassau, N. P.

H.	K.	H. K.	Courses.	Winds.	Lee way.	Remarks.
1						
2	4		S. SE	SW	1½ p.	*Sunday, May* 3, 1863.—At 2 p. m. fine weather and a smooth sea.
3						
4	4					
5						
6	4					
7						
8	4					
9						At midnight do. weather.
10	5					
11						
12	5					
1						
2	5					
3						
4	4					At 6 a. m. saw a schooner standing NE.
5						
6	4					
7						
8	4		S. SW	NW		
9						
10	3					
11						½ p. variation.
12	3					Lat. by obs., 38 55.
106						
1						
2	2		S. SE.	S. SW		*Monday, May 4th*, 1863.—At 2 p. m. light airs and smooth.
3						
4	2					
5						
6	2					
7						At midnight calm.
8	2					
9						
10						
11						
12						
1						At 8 a. m. light airs.
2						
3						
4						
5						
6	1					Men employed at sundry jobs.
7						
8	1					
9						
10	2		E. SE	South		
11						
12	2					½ p. variation. Lat. by obs., 39 12.
1						*Tuesday, May 5th.*—At 2 p. m. tacked ship; wind light and clear weather; at 4, winds increasing, and average east.
2	3		W. SW	South		
3						
4	3					
5						
6	4					
7						
8	4					
9						
10	4		W. by W	S. by W		
11						
12	4					
1						At midnight tacked ship; becomes cloudy, and strong breeze.
2	4		E. SE	South		
3						
4	4					
5						
6	3					
7						
8	3					
9						
10	4					
11						
12	4					Lat. by obs., 38 49.

Current one mile ½ hour easterly.

107 *Brig Isabella Thompson from Halifax towards Nassau, N. P.*

H.	K.	H. K.	Courses.	Winds.	Lee way.	Remarks.
1						*Wednesday, May 6th,* 1863.—At 2 p. clear weather and a rough sea.
2	3		E. SE.	South		
3						
4	3					
5						
6	3					At 8 tacked ship.
7						
8	3					
9						
10	4		W. SW			At midnight set the top-gallant sail, mainsail, and flying jib.
11						
12	4					
1						
2	3		SW.	SE.		
3						At 4 a. m. rain squalls.
4	4					
5						
6	6					
7						At 8, strong gales.
8	7			E. NE.		
9						
10	7					
11						Sun obscure.
12	7					Lat. by act., 37 38.
1						*Thursday, May 7,* 1863.—At 2 p. gales and raining.
2	8		SW.	E. NE.		
3						
4	7	5				
5						
6	7	5				At 8 p. a heavy sea running.
7						
8	7	5				
9						
10	7					
11						At midnight moderate, but cloudy.
12	5			NE.		
1						
2	4					
3						
4	3					Calm; took in the mainsail to keep it from slatt'ring to pieces.
5						
6						
7						
8						
9						
10						
11						½ p. variation.
12						Lat. by obs., 35 57.
108						
1						*Friday, May 8th.*—At 2 p. m. a light breeze and squalls of rain.
2	3		S. SW.	West.		
3						
4	4					
5						
6	4					
7						Men employed at sundry jobs.
8	4		South.	W. SW.		
9						
10	4					
11						
12	4					
1						At midnight clears off fine.
2	4					
3						
4	3		S. SE.			
5						
6	4					At 8 a. m. thick foggs; some rain.
7						
8	4		SE. by S.	SW.		
9						
10	4					
11						
12	4					Sun obscure.

Brig Isabella Thompson from Halifax towards Nassau, N. P.

H.	K.	H. K.	Courses.	Winds.	Lee way.	Remarks.
1						
2	2		S. SE	SW.		*Saturday, May 9th.*—At 2 p. a strong breeze and a smooth sea.
3						
4	5					
5						
6	5		SE. by S	SW. by S		
7						
8	5					
9						
10	5					
11						
12	5					At 8 p. m. overcast, and a strong breeze.
1						At midnight do.
2	5					
3						
4	5					
5						
6	5		S. SW	SW.		
7						
8	5					
9						
10	5					
11						
12	5					Lat. by obs., 32 51.
109						
1						
2	5		SE. by S	SW. by S		At 2 p. m. strong breezes, and overcast.
3						
4	5					
5						
6	5					
7						
8	5					At 8 looking squally; took in the mainsail.
9						
10				Calm		
11						
12						
1						
2						At midnight, raining heavy.
3						
4	3		SW	W. NW		
5						
6	3		S. SW			
7						
8	3		South	W. SW		At 4 a. m. set the mainsail; clears up.
9						
10	3					
11						
12	3					No obs.
1						
2	5		South	W. SW		At 2 p. m. light winds and heavy rain.
3						
4	5					
5						
6	5					
7						At 8 p. m. clears off; wind increasing.
8	5					
9						
10	4	4	S. SW			
11						
12	4	4				
1						At midnight, fine weather; set the royal.
2	5		SW	NW		
3						
4	5					
5						
6	5					
7						At 8 a. m. saw a brig standing east.
8	5					
9						
10	5					
11						
12	5					Lat. by obs., 29 53.

110 *Brig Isabella Thompson from Halifax towards Nassau, N. P.*

H.	K.	H. K.	Courses.	Winds.	Lee way.	Remarks.
1						*Tuesday, May 12th.*—These 24 hours moderate weather.
2	5		W. SW			
3						
4	5					
5						
6	5					
7						
8	5					
9						
10	4		W. by S.			
11						
12	4					
1						
2	2					
3						
4	2					
5						
6	4					
7						
8	4					
9						
10	4					Latter part fine.
11						Men employed at rigging.
12	4					Lat. by obs., 29 5.
1						*Wednesday, May 13th.*—These 24 hours commences moderate, with fine weather.
2	5		West	E. NE		
3						
4	5					
5						
6	5					
7						
8	5					
9						
10	4					
11						
12	4					
1						
2	4					
3						
4	4					
5						
6	4					
7						
8	3		W. by S.	NE		
9						
10	3					Latter part do.
11						Men employed at sundry jobs.
12	3					Lat. by obs., 28 48.
111						
1						*Thursday, May 14th.*—These 24 hours moderate and fine weather.
2	4		W. by S.	East		
3						At 4 p. m. spoke a brig bound to Bermuda.
4	5					
5						
6	5		West			
7						
8	5					
9						
10	5		W. SW	SE		
11						
12	6					
1						
2	6					
3						
4	6					
5						
6	4					
7						
8	3					
9						
10	3					Latter part very moderate and smooth.
11						Pumps attended to.
12	3					Lat. by obs., 28 17.

Brig Isabella Thompson from Halifax towards Nassau, N. P.

H.	K.	H. K.	Courses.	Winds.	Lee way.	Remarks.
1						
2	5		W. SW.	SE.		*Friday, May* 15.—At 2 p. m. light breeze and smooth.
3						
4	5					
5						
6	6					
7						
8	6					
9						
10	6					
11						
12	4					At midnight do. weather.
1						
2	5					
3						
4	5					
5						
6	5					
7						
8	5					
9						
10	6					
11						Men employed at sundry jobs.
12	6					Lat. by obs., 27 22.
112						
1						
2	6		W. SW.	E. SE.		*Saturday, May* 16*th.*—These 24 hours moderate wind and fine weather.
3						
4	6					
5						
6	6					
7						
8	6					
9						
10	5					
11						
12	5					
1						Men employed at sundry jobs.
2	5					
3						
4	4					
5						
6	4					
7						
8	4					
9						
10	4					
11						
12	4					Lat. by obs., 36 33.
1						
2	2		W. by S.	E. SE.		*Sunday, May* 17*th.*—At 2 p. m. squalls of rain and light airs.
3						
4	2					
5						
6	6					
7						
8	6					
9						
10	7					
11						At midnight, heavy rain and a strong gale; took in
12	7					top-gallant sail and royal and gaff topsail.
1						
2	7					
3						
4	7					
5						
6	5					
7						At 8 a. m. clears off, and more moderate.
8	5		W. by N.	SW.	1 p. long.	
9						
10	4					
11						
12	4					Lat. by obs., 26 19.

113 *Brig Isabella Thompson from Halifax towards Nassau, N. P.*

H.	K.	H. K.	Courses.	Wind.	Lee way.	Remarks.
1						*Monday, May 18th.*—These 24 very moderate, but looking squally.
2	2		West	S. SW		
3						
4	2					
5						
6	2					
7						
8	2					
9						
10	3					At midnight do.
11						
12	2					
1						
2	2					
3						
4	2					
5						At 8 a. m. some squalls of rain.
6	2					
7						
8	2					
9						
10	2					
11						
12	3					Lat. by obs., 26 14.
1						*Tuesday, May 19th.*—At 2 p. m. looking squally; some thunder.
2	3		W. by N	S. SW		
3						At 4 p. m. calm; looking very squally to the NW.
4	3					
5						
6						
7						
8				Calm		
9						
10						
11			W. by S	SE		
12						
1						
2	5					
3						
4	6					
5						
6	7					
7						
8	4					
9						At a. m. tight breeze to the SE.
10	2					At 8 a. m. a heavy squall from the NW.; took in all sail; more moderate.
11						
12	2					No observation.
114						
1						*Wednesday, 20th.*—At 2 p. m. set mainsail and T. G. sail.
2	2		W. by S	NE		
3						At 4 set the royal and took in mainsail.
4	2					
5						
6	2					
7						
8	2					
9						
10	3					
11						
12	3					At midnight looking very squally.
1						
2	4					
3						
4	5					
5						
6	6					
7						
8	6					
9						
10	6					At 8 a. m clears off, but a heavy sea running from the north.
11						
12	6					Lat. by obs., 26.

Brig Isabella Thompson from Halifax towards Nassau, N. P.

H.	K.	H. K.	Courses.	Winds.	Lee way.	Remarks.
1						
2	7		W. by S.	NE		*Thursday*, 21*st*.—At 2 p. m. strong gales and squally.
3						
4	7					
5						
6	4					
7						
8	4					
9						
10	4					
11						At 4 p. m. took in sail; reefed the topsail; at midnight
12	4					clears off.
1						
2	4					
3						
4	4					
5						
6	4					
7						
8	4					
9						
10	4					
11						At 6 p. m. saw the land; hauled up for Nassau; wind
12	4					light, made all sail.
113						
1						
2	4		S. SW.	East		
3						
4	4					At 4 p. m. took pilot.
5						At 5 came to anchor at Nassau.
6						This log contains 30 hours, which ends sea log with fine
7						weather.
8						
9						
10						
11						
12						
1						
2						
3						
4						
5						
6						
7						
8						
9						
10						
11						
12						
1						*Friday*, 22.—These 24 hours commences with fine
2						weather, wind east; hired 4 men to warp up the
3						harbor; at 4 p. m. took off deck load and cleared up
4						decks.
5						
6						
7						
8						
9						
10						
11						*Saturday*, 23*d May*, 1863.—Discharged three lighter loads;
12						
1						weather fine; had two men hired.
2				NE		
3						
4						
5						
6				East		
7						*Sunday*, 24*th*.—These 24 hours very squally, but mode-
8						rate, with heavy rain.
9						
10						
11						
12						

116 *Brig Isabella Thompson at Nassau, N. P.*

H.	K.	H. K.	Courses.	Winds.	Lee way.	Remarks.
1						*Monday, May 25th.*—Took out three lighter loads; two men hired; fine weather, with moderate winds.
2				East		
3						
4						
5						
6						
7						
8						
9						
10						
11						*Tuesday, May 26th.*—Took few lighter loads; one man hired; fine weather.
12				SE.		
1						
2						
3						
4						
5						
6						
7						
8						
9						*Wednesday, 27th.*—Took out three lighter loads; finished unloading.
10				SE.		
11						
12						
1						*Thursday, 28th.*—Commenced to take in cargo; took one hundred and fifty barrels; one man hired.
2				SE.		
3						
4						
5						
6						
7						
8						
9						
10						
11						*Friday, 29th.*—Took in one hundred and fifty barrels; two men hired.
12				SE.		
1						
2						
3						
4						
5						
6				SE.		
7						
8						
9						*Saturday, 30th.*—Took in one hundred and eighty barrels; two men hired.
10						
11						
12						
117						
1						*Sunday, 31.*—These 24 hours fine, with light winds.
2				East		
3						
4						
5						
6						
7						
8						
9						
10						*Monday, June 1, 1863.*—Took no cargo; men employed at rigging and sundry jobs.
11						
12				East		
1						
2						
3						
4						
5						
6						
7						
8						*Tuesday, 2d.*—Took no cargo; fine weather, with light airs; men employed at sundry jobs.
9						
10						
11						
12				East		

Brig Isabella Thompson at Nassau, N. P.

H.	K.	H. K.	Courses.	Winds.	Lee way.	Remarks.
1	....	.....	.....	.....	.....	*Wednesday, June 3d.*—Took in 75 bales of cotton; weather fine, with light winds.
2	....	.....	.....	.....	.....	
3	....	.....	.....	.....	.....	
4	....	.....	.....	.....	.....	
5	....	.....	.....	.....	.....	
6	....	.....	.....	SE.	.....	
7	....	.....	.....	.....	.....	
8	....	.....	.....	.....	.....	
9	....	.....	.....	.....	.....	
10	....	.....	.....	.....	.....	
11	....	.....	.....	.....	.....	*Thursday, June 4th.*—Finished taking in cargo; took 11 bales, on deck 1.
12	....	.....	.....	.....	.....	
1	....	.....	.....	.....	.....	
2	....	.....	.....	SE.	.....	
3	....	.....	.....	.....	.....	
4	....	.....	.....	.....	.....	
5	....	.....	.....	.....	.....	
6	....	.....	.....	.....	.....	
7	....	.....	.....	.....	.....	
8	....	.....	.....	.....	.....	
9	....	.....	.....	.....	.....	*Friday, June 5th.*—Cleared out, and got and made ready for sea.
10	....	.....	.....	East	.....	
11	....	.....	.....	.....	.....	
12	....	.....	.....	.....	.....	
118						
1	....	.....	.....	.....	.....	*Saturday, June 6th.*—At 10 a. m. got wind in way and proceeded to sea; thus ends the harbor log.
2	....	.....	.....	.....	.....	
3	....	.....	.....	.....	.....	
4	....	.....	.....	East	.....	
5	....	.....	.....	.....	.....	
6	....	.....	.....	.....	.....	
7	....	.....	.....	.....	.....	
8	....	.....	.....	.....	.....	
9	....	.....	.....	.....	.....	
10	....	.....	.....	.....	.....	
11	....	.....	.....	.....	.....	
12	....	.....	.....	.....	.....	
1	....	.....	.....	.....	.....	
2	....	.....	.....	.....	.....	
3	....	.....	.....	.....	.....	
4	....	.....	.....	.....	.....	
5	....	.....	.....	.....	.....	
6	....	.....	.....	.....	.....	
7	....	.....	.....	.....	.....	
8	....	.....	.....	.....	.....	
9	....	.....	.....	.....	.....	
10	....	.....	.....	.....	.....	
11	....	.....	.....	.....	.....	
12	....	.....	.....	.....	.....	
1	....	.....	.....	.....	.....	*Sunday, June 7th.*—At 2 p. m. Nassau bearing SE., dist. 5 miles.
2	....	.....	.....	.....	.....	
3	....	.....	.....	.....	.....	
4	....	.....	.....	.....	.....	
5	....	.....	.....	.....	.....	
6	4	.....	NE. by N.	E. SE.	.....	
7	....	.....	.....	.....	.....	
8	3	.....	.....	.....	.....	
9	....	.....	.....	.....	.....	
10	3	.....	.....	.....	.....	
11	....	.....	.....	.....	.....	
12	2	.....	.....	.....	.....	At midnight, moderate.
1	....	.....	.....	.....	.....	
2	3	.....	.....	.....	.....	
3	....	.....	.....	.....	.....	
4	3	.....	.....	.....	.....	
5	....	.....	.....	.....	.....	
6	3	.....	.....	.....	.....	
7	....	.....	.....	.....	.....	
8	3	.....	.....	.....	.....	
9	....	.....	.....	.....	.....	
10	3	.....	.....	.....	.....	
11	....	.....	.....	.....	.....	At 8 a. m. seen Abaco light, bearing north.
12	3	.....	.....	.....	.....	At noon up to Abaco.

119 *Brig Isabella Thompson from Nassau towards Halifax, N. S.*

H.	K.	H. K.	Courses.	Winds.	Lee way.	Remarks.
1						
2	3		N. NE.	South		*Monday, 8th.*—At 4 p. m. Abaco light west, dist. 7 miles.
3						
4	3					
5						
6	4					
7						
8	4					
9						
10	4					
11						
12	4					
1						
2	3					At midnight fine, but moderate.
3						
4	3		NE.			
5						
6	4					
7						
8	4					
9						
10	3					
11						At noon do.
12	3					Lat. by obs., 26 55.
1						
2	3		NE	South		*Tuesday, 9th.*—At 2 p. m. moderate; men employed at sundry jobs.
3						
4	4					
5						
6	4					
7						
8	5					
9						
10	5					
11						
12	5					At midnight looking squally; thundering and lightning.
1						
2	5					
3						
4	4		N. NE.			
5						
6	4					
7						
8	3		NW.	N. NE.		
9						
10	3					
11						At 8 a. m. heavy squalls of rain.
12	3					Lat. by obs., 28 8.
120						
1						
2	3		N. NW.			*Wednesday, June 10.*—These 24 hours very moderate and clear weather; pumps regularly attended to.
3						
4	3					
5						
6	3					
7						
8	3					
9						
10	3					
11						
12	3		North			
1						
2	3					
3						
4	3		N. by E.			
5						
6	4					
7						
8	4		N. NE.			
9						
10	4					
11						Latter part fine; men employed at sundry jobs.
12	4					Lat. by obs., 29 30.

Brig Isabella Thompson from Nassau towards Halifax, N. S.

H.	K.	H. K.	Courses.	Winds.	Lee way.	Remarks.
1						
2	5		N. by E	East		*Thursday, June 11th.*—These 24 hours fine, with a light breeze.
3						
4	5		NE. by N			
5						
6	5					
7						
8	5					
9						
10	5					
11						
12	5					
1						
2	4					
3						
4	4					
5						
6	4					
7						
8	4					
9						
10	4					Latter part do.
11						2 p. westerly current; men employed at sundry jobs.
12	4					Lat. by obs., 31 21.
121						
1						
2	4		N. NE	SE		*Friday, 12th.*—These 24 hours moderate and clear weather, with light winds; pumps tried regularly.
3						
4	4					
5						
6	5					
7						
8	5					
9						
10	5					
11						
12	5					
1						
2	6					
3						
4	6					
5						
6	6					
7						
8	6					
9						
10	6					Latter part strong breezes; men employed at sundry jobs.
11						
12	5					Lat. by obs., 33 13.
1						
2	5		NE. by N	SE		*Saturday, June 13th.*—First part strong breeze and clear weather.
3						Men employed at sundry jobs; pumps tried regularly.
4	5					
5						
6	5					
7						
8	5					
9						
10	5					
11						
12	5					
1						
2	4					
3						
4	4					
5						
6	4					
7						
8	4					
9						
10	3					
11						Latter part more moderate.
12	3					Lat. by obs., 34 38.

122 *Brig Isabella Thompson from Nassau towards Halifax, N. S.*

H.	K.	H. K.	Courses.	Winds.	Lee way.	Remarks.
1						*Sunday, June 14th.*—Commences with light winds and fine weather.
2	2		N. NE.	East		
3						
4	2					
5						
6	2					
7						
8	4					
9						At midnight strong breezes and clear sky
10	4					
11						
12	5					
1						
2	5					
3						
4	5					Latter part do.
5						
6	5					
7						
8	5					
9						
10	3					
11						
12	3					Lat. by obs., 36 15.
1						*Monday, June 15th.*—At 2 p. m. strong breezes and overcast.
2	4		N. NW.	NE		
3						At 4 p. m. took in royal and gaff topsail and flying jib.
4	4					At 5 p. m. took in top-gallant sail.
5						
6	5					
7						
8	5					
9						
10	5					
11						
12	5					
1						
2	5		E. NE.			
3						
4				Calm		
5						
6						
7						
8	3		NE. by E.			
9						
10	4					At 4 p. m. made sail; all sail.
11						Pumps kept regularly going.
12	4					Lat. by obs., 37 09.
123						
1						*Tuesday, June 16th.*—At 2 p. m. strong breezes and clear weather.
2	7		NE. by E.	W. SW		
3						Men employed at sundry jobs; pumps attended to.
4	7					
5						
6	7					
7						
8	8					
9						
10	8					
11						
12	8					
1						
2	7		E. NE.	North		
3						
4	6					
5						
6	4					
7						
8	4		E. NE.	N. NW.		
9						At 4 a. m. took a squall from the north; took in light sails.
10	4					
11						At 8 a. m blowing fresh.
12	4					Lat. by obs., 37 55.

Brig Isabella Thompson from Nassau towards Halifax, N. S.

H.	K.	H. K.	Courses.	Winds.	Lee way.	Remarks.
1						
2		4	E. NE.	North.		*Wednesday, June 17th.*—At 2 p. m. wind bearing north, with a heavy sea running.
3						At 8 set light sails again.
4		4				
5						
6		4				
7						
8		4				
9						
10		4	NE. by N.	N. NW.		
11						
12		6				At midnight fine, with a strong breeze.
1						
2		6				
3						
4		6				
5						
6		6				
7						
8		4				
9						
10		6	N. NE.	W. SW.		At 8 p. m. saw a ship standing north; men employed at
11						sundry jobs; pumps attended to.
12		6				No obs. Lat. by obs., 39 03.
124						
1						*Thursday, June 18th.*—These 24 hours commences with
2	6		N. NE.	SW.		strong breezes and fine weather.
3						
4	6					
5						
6	6					
7						
8	6					
9						
10	6					
11						
12	6					
1						
2	6					
3						
4	6					
5						
6	6					
7						
8				Calm.		
9						
10						Latter part ditto weather; men employed at sundry
11						jobs.
12						Lat. by obs., 40 34.

IN THE SUPREME COURT OF THE UNITED STATES.

DECEMBER TERM, 1865.

No. 88

In Prize.

THE BRIG ISABELLA THOMPSON, &c., and cargo, JAMES MCDANIEL, claimant of vessel, and NEHEMIAH K. CLEMENTS, for himself and Martin & Co., claimants of cargo, appellants, *vs.* THE UNITED STATES.	Appeal from the decree of the district court of the United States for the southern district of New York.

STATEMENT AND ARGUMENT FOR THE UNITED STATES.

JAMES SPEED,
Attorney General.
TITIAN J. COFFEY,
Special Counsel for the United States.

GOVERNMENT PRINTING OFFICE.

In the Supreme Court of the United States.

No. .

DECEMBER TERM, 1865.

In Prize.

THE BRIG ISABELLA THOMPSON, &c., and cargo, JAMES MCDANIEL, claimant of vessel, and NEHEMIAH K. CLEMENTS, for himself and Martin & Co., claimants of cargo, appellants, *vs.* THE UNITED STATES.	Appeal from the decree of the district court of the United States for the southern district of New York.

STATEMENT AND ARGUMENT FOR THE UNITED STATES.

The brig Isabella Thompson, laden with 486 barrels of spirits of turpentine and 81 bales of cotton, was captured on the 19th of June, 1863, by the United States ship-of-war United States, Lieutenant Commander Meade, off St. George's Banks, in latitude 40° north, longitude 67° 10′ west, or thereabouts. She was brought into the port of New York and there libelled as prize of war by the United States attorney for that district on the 24th of June, 1863.

On the 10th of July, 1863, Nehemiah K. Clements, alleging himself to be a British subject and resident of Nova Scotia, filed a claim on behalf of himself and of Martin & Co., of Nassau, New Providence, residents of that island and subjects of Great Britain, for the whole of the cargo, claiming that they were the

true and only owners of the cargo, and that the said cargo at the time of capture was on board a neutral vessel, on a voyage between neutral ports, viz: Nassau, N. P., and Halifax, N. S. (Record, pp. 5–6.)

On the 14th of July, 1863, James McDaniel, alleging himself to be a British subject, resident at Halifax, Nova Scotia, filed a claim for the brig and tackle, &c., claiming to be the true and only owner thereof, and that she was, when taken, a neutral vessel on a voyage between the neutral ports aforesaid. (Record, pp. 6–7.)

On the 31st of July, 1863, the district court decreed that the vessel and cargo be released from custody and restored to the respective claimants, but without damages or costs as against the United States or captors, which decree on the 18th of August, 1863, became "final and absolute." (Record, pp. 31–32.) The claimants appealed to this court from so much of the decree as withholds damages and costs to the claimants. (Record, p. 32.)

The only question in this court is, therefore, as to the correctness of that part of the decree.

The Isabella Thompson was British built, and was owned by the claimant McDaniel, who resided at Halifax, N. S.

On the 25th of April, 1863, McDaniel chartered her to Wm. Pryor & Sons, of Halifax, for a voyage "at and from Halifax to Nassau, N. P., from thence to New York, or from Halifax to Nassau, and to return to Halifax, with liberty in either case to proceed to a salt island for cargo, if so required by the agents of the charterers." (Record, p. 21.) The names of the "agents of the charterers," whose control over the vessel is thus recognized, are not given, but they are evidently B. Wier & Co., the well-known agents of the blockade runners at Halifax.

She carried, under this charter, from Halifax to Nassau, a general cargo of lumber, fish, &c. (Record, pp. 12-19.)

Whilst lying in the harbor of Nassau, out in the stream, the brig received on board the cargo of cotton and turpentine with which she was laden when captured. It was not shipped on her from the shore, and never was on the island of New Providence, but was transferred to her from the schooner Arguile, which had run the blockade of Wilmington, N. C., with this cargo.

We abstract the testimony showing the circumstances under which the Isabella Thompson received her cargo at Nassau for the return voyage to Halifax.

Wm. Steele says the cargo was put on board from a lighter, which made two trips between the vessel and the wharf at Nassau. (Int. 30, Rec., p. 9.)

Gabriel English, the cook and steward, says: "When captured we had cotton and turpentine, which was put on board in the harbor of Nassau, out in the stream. We were about four or five days taking it in. We took it from the schooner Arguile, the latter end of May or the fore part of June, 1863." (Int. 11, Rec., p. 12.) "He took the cargo off from the schooner Arguile, a southern vessel, from Wilmington, N. C. I suppose the cargo came from there." (Int. 29.) "The cargo was put on board from the schooner Arguile, which had run the blockade from Wilmington, and we took it off from the Arguile in the harbor of Nassau. I was told the captain of the Arguile owned part of the vessel, *and I suppose he owned a part of the cargo.* I don't remember his name. He is a southern man from Wilmington." (Int. 30, Rec., p. 13.)

In his affidavit, taken before his examination *in preparatorio*, English says: "We there (in Nassau harbor) remained at anchor until the 28th of May, 1863, when the schooner Arguile, hailing from Halifax, N. S., but well known to belong to Wilmington, N. C., hauled alongside of our vessel and commenced discharging her cargo, consisting of bales of cotton and casks of turpentine, into our vessel until we were

fully laden," &c. * * I further state, that while receiving cargo at Nassau, N. P., from the schooner Arguile, I frequently conversed with the officers and crew; that they stated to me, and in my presence, that although the schooner Arguile hailed from Halifax, N. S., she belonged to Wilmington, N. C., and had but a few days previous succeeded in running the blockade off Wilmington, N. C., with the identical cargo of cotton and turpentine now on board this brig; further, that the captain and mate of this vessel were fully aware of these facts." (Rec., pp. 22, 23.)

Thomas Stevens, the mate, says "the cargo was taken on board from a vessel acting as a lighter, called the Arguile. I never saw her name. She made two trips, both from the wharf at Nassau. I have heard the Arguile run the blockade once. I don't know when." (Int. 30, Rec., p. 16.)

E. J. Locke, captain, says: "This cargo was put on board about the first of this month, in the harbor of Nassau. It was put on board by a Mr. Baker, the man who had charge of the schooner or lighter, or whatever she was, from which I took the cargo." (Int. 16, Rec., p. 19.) "The cargo was put on board in the harbor of Nassau, from a vessel or boat alongside of my vessel. *I don't know the name of the vessel, nor where she was from.*" (Int. 30, p. 20.)

Captain Locke's pretended ignorance of the name and movements of the vessel from which he received his cargo is quite as significant as are the foregoing facts proved by his sailors.

The bills of lading and invoices represent the cargo as shipped by Martin & Co. on the Isabella Thompson, bound for Halifax, N. S., consigned to B. Wier & Co. for account and risk of shippers, Wier & Co. paying freight for the cargo. (Rec., pp. 25, 26.)

On the 5th of June, 1863, Martin & Co., of Nassau, write to B. Wier & Co., Halifax, that they have sent by the brig a cargo of 486 casks spirits of turpentine, and 81 bales of cotton, which they wish disposed of most

to their advantage. They are happy to announce arrival of schooner Arguile with a full and valuable cargo, about $42,000. They add, "You will, of course, upon consultation with Captain Clements and Dollner, Potter & Co., if they so decide it most to the interests of *all concerned*, sell at Halifax. We do not like to have our property shipped on our account to the United States. *Captain Clements is the owner of one-half the cargo, being that brought out by the Arguile.* We are largely into steamers; one leaves about 10th for Dixie, with valuable cargo; will bring back 1,200 bales cotton." The letter closes with an invitation to invest in these speculations. (Rec., p. 57.)

On the same day, Martin & Co. also write "Dollner, Potter & Co., New York," enclosing invoice and bill of lading of the same cargo, consigned to B. Wier & Co., who are instructed to confer with Messrs. D., P. & Co. as to its disposition. They add, "The cargo is jointly owned by the owners of the A 1 boat. We are happy to tell you the famous boat arrived ten days ago with 460 casks spirits, 90 bales cotton, and 50 to 60 barrels No. 2 rosin, in bulk, which we shall send to you as soon as a chance offers. We've also 28 bales on hand."

These letters and the preceding evidence show that the cargo of the Isabella Thompson consisted certainly in part, and probably in whole, of the cargo which had broken the blockade of the port of Wilmington on the Arguile; that it was transshipped from the Arguile to the Isabella Thompson without any landing whatever at Nassau; that no change of ownership or possession of the cargo took place at Nassau; that it never entered into the commerce or became part of the common stock of Nassau, and that its transfer to the Isabella Thompson for carriage to Halifax was part of the commercial venture which had its origin in Wilmington, and would have had its end at Halifax. The cargo brought from Wilmington to Nassau on the Arguile had *no commercial destination* to

Nassau, and that port can in no just commercial sense be called the end of its voyage from Wilmington. It was simply an intermediate port for transshipment on the way from Wilmington to Halifax.

The evidence discloses the existence of an organization of blockade breakers, represented at Nassau by Martin & Co.; at Halifax by B. Wier & Co.; at New York by Dollner, Potter & Co., and of which Clements, one of the claimants, is also an active partner. Adopting the familiar devices by which blockade breakers sought to lessen the risks of their business, they divided their operations into two parts, first running vessels from the blockaded port to Nassau, and, secondly, transshipping their cargoes at Nassau to other vessels on which they were transported, as if on a new voyage, to Halifax or some other port of real destination. The cargoes thus run out were to be sold at the port of real destination, "upon consultation" of the parties interested, as they should "decide it most to the interests of all concerned." Of the vessels employed in this business, the Arguile is a sample of one class, and the Isabella Thompson of the other. They were as much parts of one commercial venture, common agents in a single voyage, beginning at Wilmington and ending at Halifax, as are two locomotives which draw a train of cars over separate parts of the same railroad.

It is obvious, on the whole evidence, that this cargo was shipped at Wilmington with no intention of being landed at Nassau, as the end of its voyage, but with the intention of being there transshipped for further transportation to its market, *with unchanged ownership and control.* This *intention* in the original shipment furnishes the test by which a prize court will determine the *status* of the cargo when captured, if the cargo be taken on the voyage, prosecuted in execution of that intention. And the mere fact of stoppage and transshipment at an intermediate neutral port, as part of the original scheme of voyage, will not purge

the cargo of its guilt. The court will adjudge the question of guilt according to the facts of intention, and not according to the form by which that intention is sought to be concealed.

This principle has been frequently applied to vessels and cargoes prosecuting a voyage to an interdicted port, where a lawful character was attempted to be given to it by a colorable stoppage at a neutral port. *The Thomyris*, (Edwards, 17;) *The Maria*, (5 Rob., 365;) *The William*, (5 Rob., 385.)

Why, then, should not the same principle subject to condemnation a cargo prosecuting a voyage from an interdicted port, where the capture has been made after a colorable stoppage at a neutral port? If the voyage to the interdicted port be unlawful, notwithstanding the intermediate stoppage, *e converso*, the voyage from the interdicted port, notwithstanding the intermediate stoppage, is also unlawful. The cases cited, especially *The Thomyris*, are exactly the converse of the present case.

If the cargo be *in delicto* at any stage of the voyage, the liability to capture instantly attaches. *The Columbia*, (1 Rob., 154;) *The Vrow Joanna*, (2 Rob., 109;) *The Neptunus*, (Ib., 115;) *Medeiros* vs. *Hill*, (8 Bing., 231;) *Yeaton* vs. *Fry*, (5 Cranch, 335;) and when guilt has attached, it will be presumed to continue throughout the voyage. *The Minerva*, (3 Rob., 229;) *The Imina*, (3 Rob., 167;) see also *The Richmond*, (5 Rob., 325.)

But assuming, as we do, that this cargo was shipped from Wilmington, with no intention of being landed at Nassau as the end of its voyage, but for the purpose of being there transshipped for delivery at another port, the liability of the goods to capture, after the transshipment, has been expressly decided. *The Maria*, (6 Rob., 201;) *The Charlotte Sophia*, (6 Rob., 205, note 1,) where both ship and cargo were condemned.

The claimants here were the owners of the goods

when they ran the blockade, and were the owners of the Arguile, which brought them from Wilmington to Nassau. In their letter to Wier & Co., Martin & Co., who are here as claimants, say, "Captain Clements is the owner of one-half the cargo, being that brought out by the Agle." (Rec., p. 27.) In their letter to Dollner, Potter & Co., Martin & Co. say, "The cargo is jointly owned by the owners of the A 1 boat." (Rec., p. 27.) The next sentence shows that by the A 1 boat is meant the Arguile.

There is evidence, also, to justify the inference that Clements, who is called "captain," was captain of the Arguile on the voyage from Wilmington with this cargo. (See testimony of English, Int. 30, Rec., p. 13.)

These facts, together with the connexion of both the claimants with Wier & Co., who controlled the Isabella Thompson, and to whom the cargo was consigned, show that the cargo of the Arguile was run out from Wilmington with the purpose of being transshipped at Nassau, in further prosecution of its voyage, to a market, and justify the belief that the Isabella Thompson was chartered for the purpose of aiding in this illicit trade, by receiving such cargo at Nassau, and carrying it to its real destination.

If these views be correct, it is submitted that they would have furnished the court good ground for condemning the cargo, if not the vessel also.

Did the court err, then, in refusing the claimants' costs and damages?

If the cargo or vessel should have been condemned, of course the claimants cannot complain of a decree which restored their property, with loss of costs and damages.

But even if the proved facts would not have justified condemnation, we submit that, beyond question, they justified the refusal of costs and damages. For they amount to proof of probable cause of capture, and this is the test by which, in doubtful cases, prize

courts determine whether costs and damages ought to be allowed or refused, and the question is one purely in the discretion of the court.

"Where, upon the hearing in the first instance, upon the papers and documents found on board the vessel, and the examination *in preparatorio* taken by the commissioners, it appears that for any cause, in the judgment of the court, restitution should be decreed in favor of the claimants, the question then arises whether, upon such restitution, the damages, costs and expenses are to be paid by the captors or the costs and expenses by the claimants. This rests entirely in the discretion of the court, and by the practice of prize courts has been made to depend upon the proof of probable cause of capture. Wherever, upon the evidence taken in the first instance, the case is so doubtful that an order for further proof is made by the court, the costs and expenses are never allowed to the claimant." (Upton, Mar. War & Prize, 273, 274.)

"In respect to cases of captures *jure belli*, no principle is better settled in the law of prize than the rule that probable cause will not merely excuse, but even in some cases justify a capture. If there be probable cause, the captors are entitled, as of right, to an exemption from damages; and if the case be of strong and vehement suspicion, or requires further proof to entitle the claimant to restitution, the law of prize proceeds yet further, and gives the captors their costs and expenses in proceeding to adjudication." *The Appollon.* (9 Wheat., 372; Story, J.)

If, then, the circumstances under which the Isabella Thompson was prosecuting her voyage were, at the time of her capture, such as to establish *probable cause* for the capture, the court was right in refusing costs and damages to the claimants.

What constitutes probable cause for capture as prize of war is well stated by Justice Story in *The George*, (1 Mason, 27,) adopting Chief Justice Marshall's definition of probable cause in *Locke* vs. *The*

United States, (7 Cranch, 348.) It having been argued that to constitute a probable cause of capture the circumstances of the case must be such as, *prima facie* and standing alone, would furnish a good ground of condemnation; or that, if this be not correct, the most indulgent rule is that it should be a case of such doubt as to call for further proof at the least; and that, if a court of prize would restore without further proof, it would be conclusive evidence of a defect of probable cause, Justice Story said, "Nor have I been able to find such a doctrine asserted in any elementary work or prize report. There can be no doubt that where there is *prima facie* evidence to condemn, or so much question and difficulty as to require further proof, the captors are completely justified. But that these are the only tests of a probable cause for the capture I am by no means prepared to admit. In *Locke* vs. *The United States*, the Supreme Court held that the terms "probable cause," according to their usual acceptation, meant less than evidence which would justify condemnation, and, in all cases of seizures, had a fixed and well-known meaning; that they imported a seizure made under circumstances which warrant suspicion. In my judgment, the terms must receive the same exposition in reference to matters of prize. If, therefore, there be a reasonable suspicion of illegal traffic, or a reasonable doubt as to the proprietary interest, the national character, or the legality of the conduct of the parties, it is proper to submit the cause for adjudication before the proper prize tribunals, and the captors will be justified although the court should acquit without the formality of ordering further proof." (1 Mason, 26–27.) See also the *St. Antonius*. (1 Acton, 113.)

It is not deemed necessary to add other authorities in support of the settled rule stated by Judge Story.

That the facts surrounding the Isabella Thompson when she was captured, as disclosed by her papers and the other testimony *in preparatorio*, justified "a

reasonable suspicion of illegal traffic, or a reasonable doubt as to the proprietary interest, the national character, or the legality of the conduct" of the owners of both ship and cargo, seems too plain for argument. This "reasonable suspicion" was probable cause for her capture, and that part of the decree refusing costs and damages to the claimants was, therefore, right.

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TITIAN J. COFFEY,
Special Counsel for U. S.

Supreme Court of the United States.

No. 162.

THE BRIG "ISABELLA THOMPSON," HER TACKLE, &C., JAMES MCDANIEL, CLAIMANT, AND NEHEMIAH K. CLEMENTS, ON BEHALF OF HIMSELF AND MARTIN & CO., CLAIMANTS OF THE CARGO, APPELLANTS.

vs.

THE UNITED STATES.

POINTS FOR APPELLANTS

C. DONOHUE,
For Appellants.

NEW-YORK:
GEORGE F. NESBITT & CO., PRINTERS AND STATIONERS,
CORNER OF PEARL AND PINE STS.

1864.

Supreme Court of the United States.

No. 162.

THE BRIG "ISABELLA THOMPSON," HER TACKLE, &C., JAMES MCDANIEL, CLAIMANT, AND NEHEMIAH K. CLEMENTS, ON BEHALF OF HIMSELF AND MARTIN & CO., CLAIMANTS OF THE CARGO, APPELLANTS.

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1864.

Supreme Court of the United States.

THE BRIG ISABELLA THOMPSON, JAMES MCDANIEL, CLAIMANT, AND THE CARGO OF SAID BRIG, NEHEMIAH K. CLEMENTS AND MARTIN & CO., CLAIMANTS,

Appellants,

against

THE UNITED STATES,

Libellants and Appellees.

STATEMENT.

THE case below was this: The brig Isabella Thompson, a British vessel, (fol. 13, claim of McDaniel,) fols. 18, 28, 40, 51 and 52, while on a voyage from Nassau, N. P., to Halifax, Nova Scotia, fols. 19, 20, sailing properly documented, (see Judge Betts' opinion,) with a cargo belonging to Nehemiah R. Clements, and Martin & Co., British subjects, (see opinion and documents in the case,) was captured, she being on her proper course, (fol. 34,) by a cruiser of the United States. All the brig's crew but a negro cook were taken out of the brig and put on the cruiser, (fol. 65.) The brig

had her bills of lading, register and clearance at Halifax and Nassau. The supposed cause of seizure was, for having run the blockade, (fol. 28.)

Neither the vessel nor her crew had run or attempted to run the blockade, (see opinion and testimony.) The vessel arrived in New-York, June, 23d, 1863. The testimony was taken between the 24th and 27th days of June, 1863.

The process was returnable on the 14th of July, 1863, and McDaniel filed his claim on the 14th of July, and Clements filed his claim on the 10th of the same month. The decree, restoring the vessel, was made on the 18th of August, 1863, the Court below refusing costs and damages to the vessel and cargo. From this part of the decree, claimants severally appeal.

For the vessel, the following points are made:

First.—As matter of fact, no cause whatever existed, either at the time of seizure or trial, for her capture. Judge Betts finds that all her papers were regular and fair, that she was bound on a legitimate voyage, and in its due prosecution. All things were not only fair, but beyond suspicion, but for a negro's statements, who was found on board, and those statements nowhere appear to have been made at the time of seizure or before he was tampered with, as we have the right to argue; and even such statements, on further proof offered to the captors, they did not feel safe in submitting to the hazard of cross-examination. Not a single paper was found on board, to impeach the good faith and character of the vessel.

Second.—No belligerent right or power in any way authorizes the seizure or detention of a vessel, the papers of which show a *bona fide* destination, from a neutral to a neutral port.

Nothing is shown, in any way, against this vessel, to authorize her seizure; and being a neutral, owing us no allegiance, and taken on the high seas, she is entitled to recompense for her damages.

As to the cargo—

Third.—It is clear, that this cargo, if proved to have run the blockade, had reached a foreign nation, and the home of one of the claimants, and within his power in such neutral country, that the mere fact of so having run the blockade, no more subjects it to forfeiture than most of the cotton to be found on the high seas between Havana, Matamoras, Nassau and European or American ports. In fact, every day shows arrivals and entries of such cotton in our ports. This point is rendered familiar by the yet fresh discussion in the Mason and Slidell case.

Nothing, either at the time of seizure, or since, (the captors having failed to furnish their further proof,) gives reasonable ground for it.

By analogy, if a claimant is allowed further proof, and fails to give it, and condemnation for that follows, it would seem to be fair to say, that, on such a suspicion so raised as that here, the offer of further proof to libellants, and not furnished, should subject them to the same result that a claimant on a similar event would meet—that is, condemnation.

As to both vessel and cargo—

Fourth.—By the nature of prize evidence, the claimant has but little means of proving bad faith, or showing bad faith in the captors; but, in this case, we respectfully submit that the seizure was a speculation, and the acts of the seizors subsequent to the seizure, not only unjustifiable, but proving an intent to make the appearance of official duty cover an ulterior and interested motive. Extraordinary conduct in such cases, is liable to severe censure.

See 2 Dodson, 240.

1. The seizure itself (without the negro's statement, on which it was not made), even the Court below considered without any foundation.

2. To separate the crew (with the exception of this negro) from a neutral vessel, on a neutral voyage, is contrary to usage and suspicious in itself, as leaving ground to suppose they would operate on this colored man so left in their possession.

3. We find that, either from favor, coercion or some other cause, a most carefully prepared and highly colored and witnessed statement is obtained at sea from this man. (See statement.)

4. As the man, even wound up as he had been, with his friends still absent, could not be pushed up to this on examination, it is crowded into the papers.

The whole conduct of the officers in the matter, is certainly not creditable, and, for the honor of the service, we are happy to see that the parties are only acting

(that is volunteer) officers. The most entire good faith is demanded in this military kind of trial, and its absence is severely animadverted on by the Courts.

The Prize Commissioner, Elliott, seems to have taken part in the feeling, and to have put this paper, having no earthly right there, and without any reference to it, into the case.

Even the Court below seems to have done what Courts always frown on, *i. e.*, gave the captors leave to take advantage of their own wrong, by substantiating this statement if they could, and yet they could not.

Where a claimant prevaricates, or suppresses, or attempts to cover, he is not allowed to be heard; and these parties certainly stand no better. Where further proof is necessary, it will not be allowed to persons guilty of fraudulent acts.

The Anna, 1 C. Rob. 124.

As to the same point, see 2 C. Rob. 104.

And bad conduct subjects captors to loss of salvage.

Irregularity by the captors, subjected them to loss of salvage in
The Barbara, 3 C. Rob. 171.

Even delay in consenting to restore, subjects them to costs and damages.

Delay in consenting to restitution in a proper case, damages pronounced for.
1 C. Rob. 288.

Damages given for failure of captors to consent to restore in a proper case in time.
4 C. R. 71.
See also the Barossa in note to Hogg.

We respectfully, on this point, submit that when dealing with foreign rights, a frank and generous deal-

ing is to be established, and that foreigners should understand that, while we can protect and enforce our rights, we are not disposed to cover speculative efforts to get prize-money.

Fifth.—No suspicious or unfair testimony, or advantage obtained by the captors, can add to their rights or save them from damages.

The statement of the case in the Triton, by Sir W. Scott, 4 C. R. 104, when the captors had picked up a passenger, and, through him, attempted to make a case, is much like the present.

See The Triton, 4 C. Rob. 78, 79.

Her being on a neutral voyage, and with proper papers, fixes that they had no right to seize.

Sixth.—No amount of good intention or good faith can excuse a damage to a neutral, if the captor is mistaken in law as to his rights, and he has the means before him to ascertain the facts.

In the Acteon, 2 Dod. 54. The Court says, (the vessel was in good faith, but without right destroyed:) There are circumstances that may have afforded very good reason for destroying the vessel, and made it a meritorious act in Captain Capel, as far as his own judgment is concerned; but these furnish no reason why the American owner should suffer * * * "It does not appear that Captain Capel is charged with having acted with corrupt or malicious motives * * * If, as I believe to have been the case, he has acted from a

sense of duty and of obedience to orders, I can have no doubt that he will be indemnified * * * I must pronounce for costs and damages * * * and this without imputation in the conduct of the captain."

Again, same case, page 52.

Sir W. Scott says: "If the captor has acted from error and mistaken duty, the suffering party is still entitled to full compensation, (if not contributing to the loss.)"

In the case of the John Buck, 2 Dod., the Court says, page 339, "Most certainly it is not sufficient for a party to plead ignorance as a legal excuse for making compensation to another, if his ignorance was vincible to himself at the time at which the transaction took place."

"In an unfortunate case like the present, the Court "would certainly be disposed to give the captain all "possible relief; *but I need not add, that no relief is pos-* "*sible which cannot be given consistently with the justice* "*due the claimant—that is the true rule.*"

It is evident that the Court below found the whole case clear and fair with us, except the negro's testimony; and to allow them, if possible, to substantiate this, the Court gave them the right to open the case and add to their proof. This they could not do, and we respectfully submit, that, on well-settled principles, on the evidence here, the Court was wrong in withholding costs and damages from us, and the decree in that respect should be reversed. Nothing can be clearer and more to the point than Sir W. Scott's remarks, in 4 C. Rob., page 317.

U. S. DISTRICT COURT.

THE UNITED STATES

against

THE BRIG ISABELLA THOMPSON, &c., AND CARGO.

Opinion of the Court.

THIS vessel and cargo were captured as prize of war, June 19, 1863, on the Atlantic Ocean, by the U. S. steamer, "The United States," and sent to this port for adjudication.

James McDaniel, of Halifax, Nova Scotia, intervened and claimed as owner of the brig, and Nehemiah K. Clements, for himself and others, appeared and claimed the cargo.

As in the preceding case, (schooner Glen,) the vessel had a certificate of British registry, given at Halifax, Aug. 5, 1862, as of a British vessel, built in New Brunswick, 1861, to James McDaniel, of Nova Scotia. The vessel had a certificate of entry and clearance, at Halifax, April 27, 1863, for Nassau, N. P., of a cargo of sundries, and a clearance at Nassau, June 5, 1863, for Halifax, for a cargo of spirits of turpentine and upland cotton, with letter of instructions, bills of lading, and invoice conformably thereto. *The cargo was taken on board in the harbor of Nassau. The ship's papers, upon their face, were regular and in due order.*

The master and ship's company were proven, on the *preparatory examination, to be British subjects, without any interest either in the vessel or cargo.*

The voyage commenced at Halifax, and was to have ended there. The vessel made no port between Halifax and Nassau on the outward voyage, nor between the same ports on her return voyage, and was not near any port when captured, and had not attempted to enter any port on her return voyage. She was captured off St. George's Banks. *All the papers on the vessel were regular and apparently fair.*

No proofs were given, on the examination in preparation, that the cargo of the vessel was procured from a blockaded port *by any person on board of, or interested in, the prize vessel, or that it was the property of such person;* and no reasonable color for doubt or suspicion as to the lawfulness or fairness of the voyage in question is furnished by the evidence in the case, *except what arises from the testimony of the cook, Gabriel English, who testifies,* (*fols.* 29, 30,) that the cargo seized was unladen from the prize vessel in the harbor of Nassau, from the schooner "Argyle," which had just run the blockade of Wilmington, bringing that cargo into Nassau. He understood the master *of the Argyle was part owner of her,* and he supposes *he owned part of her cargo also.* He was a Southern man, from Wilmington.

This conjecture of the witness cannot affect the ownership of the consignees and shippers of the cargo at Nassau. *The neutral consignee at that port acquires a perfect title to the cargo as against the captors, although it was carried to Nassau* by runners of a blockade, and the libellants had no legal authority to arrest it on board a neutral vessel transporting it from a neutral port.

But acting on the persuasion that the cargo having been unlawfully brought from a blockaded port, and directly unladen from the blockade runners' vessel, on to the "Isabella Thompson," the cruiser might *very naturally believe she possessed a rightful authority to intercept such transaction as one falling within the just cognizance of a Prize Court, and bring her in for adjudication* before that tribunal on such suspicion.

Had any solidarity of interests between the Argyle and the Isabella Thompson been established by the proofs in the entire voyage from Wilmington to Halifax, or any complicity between the two vessels in the enterprise, the captors might well invoke the judgment of the Court in condemnation of the enterprise. Although the evidence fails making a clear case of illicit dealing on the part of the brig, subjecting her to forfeiture. I think a reasonable cause of suspicion arises out of the testimony, of sufficient force to justify the libellants giving further proofs to that point, if moved for by them.

As the proofs now stand, I shall order the brig and cargo released from this seizure, and to be restored to the claimants, without damages or costs, but with permission to the libellants, on four days' previous notice to the claimants, to move the Court for leave to give further proof in the suit upon the aforesaid point.

Order accordingly.

C. DONOHUE,
For Appellants.